

A
STATEMENT
OF THE
PENAL LAWS,
WHICH AGGRIEVE
THE CATHOLICS
OF IRELAND:

With Commentaries.

IN TWO PARTS.

PART II.

“ *BENEFICIA gratuita sint: pretium eorum melius
relinquitur in accipientium animis, quam præsens
exigitur.*”

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DUBLIN:

H. FITZPATRICK.

1812.

STATEMENT
OF THE
PENAL LAWS

WHICH AGGRAVATE
THE CRIMES
OF IRELAND
BY THE
COMMISSIONERS

IN TWO PARTS

PART II

THE
LAW
OF
THE
IRISH
JURY

BY
J. H. H. H.

1812

STATEMENT,

&c. &c.

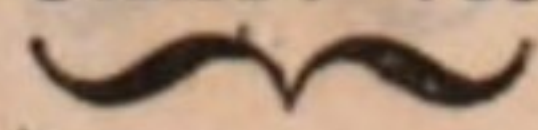
PART II.

CHAP. VII.

*“Of the Laws, which disqualify the Catholics
 “from voting at Parish Vestries for levy-
 “ing money to build, repair, or rebuild
 “Churches;—or for demising or disposing
 “of any Parish Income;—or for the
 “salary of the Parish Clerk;—or at the
 “Election of any Churchwarden.”*

1. IN the foregoing chapters, our painful office has been, principally, to state those jealous laws, which disqualify the Catholics from public Offices and situations, obstructing their advancement, and abridging the legitimate means of providing for their families.

We now come to another class of Penal Laws, inflicting new hardships: not merely repelling

CHAP. VII.  the approach of Catholic merit or ambition, but actually pursuing each poor Catholic into his humble farm and dwelling, and marking him as an object of grievous and grinding TAXATION.

Parish rates:

2. PARISH RATES, of which we are now to treat, have been long and justly the subject of loud complaint in Ireland. For unfolding the causes and extent of this complaint, it will be proper to premise a few observations touching the peculiar state and distribution of Landed property in Ireland, upon which those rates are imposed.

Tenures of land in Ireland.

All taxes payable by the occupying tenant.

3. The Lands of Ireland are almost universally occupied by tenants holding separate tracts, under Leases, generally subject to considerable yearly rents, and for terms of lives or years. There is probably no instance (although not uncommon in England) of a Farmer, cottager, or peasant, in Ireland, being also the absolute owner (whether in fee-simple, or by copy-hold, or otherwise) of the land which he cultivates. Besides his yearly rent, he is also chargeable with all Tithes, *Parish Rates*, County Cesses, public Taxes, and other outgoings.

No part of these taxes falls upon the proprietor of the soil, or upon any of the persons deriving intermediate interests between the proprietor and the actual occupier: the latter alone bears the whole burden. CHAP. VII.

Now, the Proprietors, or lords in fee, of the lands in Ireland, are (as to about *four-fifth* parts) Protestant Noblemen, Gentry, and Corporations; the residue belongs to Catholics, Dissenters, and others. Proprietors mostly Protestant.

Next, the holders of the intermediate Tenures between the proprietors and occupiers are, probably in pretty equal portions, Protestants, Catholics, and Dissenters. Secondary tenures, Protestant and Catholic, &c.

These intermediate Tenures have necessarily arisen from the state of Ireland during the last one hundred years; its provincial situation; the absence, the indolence, or the prudence of the proprietors: the industry, skill and intelligence of the resident lessees. They are of considerable value; fluctuating according to local circumstances, the duration of the lease, &c. They are very productive of profit rents; especially if granted previously to the general rise in the value of lands in Ireland: and, in the instances of very early date, they are intrinsically more valuable than the interests which the very proprietors. Causes of the secondary tenures.
Their value.

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Occupying tenants: mostly Catholics.

etors enjoy in the soil.* Hence, they form a large proportion of the incomes of the gentry and middle classes of inhabitants, far exceeding any estimate that can be formed from the value or extent of similar tenures in England.

Thirdly, the occupying Tenants, who are subject to the last and heaviest rents. *They consist almost wholly of Catholics.* Certainly it is not too much to affirm, that such is the fact in 199 instances out of 200. Nor can this fact appear strange to any person, who reflects upon the natural effects of the Popery Laws, enacted a Century ago. These Laws expelled the Catholics from cities and towns; and compelled them to dwell in the open country: to take lands at high rates, and for short terms; at rents not less than *two-thirds* of the full improved yearly value, and for terms not exceeding 31 years. These laws, which reduced some Catholics to beggary, taught industry to others; whilst they inflicted poverty and penury, they also inculcated labour and frugality. The Catholics learned, in their humiliation and necessities, to

Lord Taaffe on Ireland, 1765.

How the Catholics have become the occupying tenants.

* Many of these tenures have been granted 50, 60, or 80 years ago; for very long terms of years, or for three lives renewable for ever; and at rents not equal to one-sixth part of the *present* improved yearly value.

endure the miseries of their condition: to live sparingly and squalidly: to offer higher rents: to accept of smaller profits: to risk heavy losses and frequent disappointments: in fine, to submit to numberless privations, which the cherished and comfortable Protestant had no occasion to undergo. Hence, the Catholics naturally became the occupying tenants: they had cultivated the science of *making rent*, and could therefore undertake to outbid all competition. The unforeseen and accidental causes which have since raised the value of lands, have, in many instances, bestowed prosperity upon that course of industry, which otherwise seemed desperate—the result of Penal law, and the resource of mere necessity.

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Catholics, the occupying tenants, and liable to all Land-Taxes.

Such being the present condition of Landed property in Ireland, we proceed to state the principles of Taxation upon which this property is legally rated, and the proportion of rate which is charged upon the landholders, farmers, cottagers, and peasants—that is to say, upon the Catholics.

As this Taxation is regulated under the name and authority of Parish Vestries, we shall first present a view of the constitution and powers of a Parish Vestry, as recognized by the laws of Ireland.

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SECTION II.

Of Parish Vestries, and their Powers.

A Vestry defined.

I. A PARISH VESTRY signifies an assembly of the whole parish, met together in some convenient place, for the dispatch of the affairs and business of the parish.

Burns' Eccl.

Law, vol. 4. p. 8.

All inhabitants of the parish who pay church rates, or scot and lot, and also all out-dwellers who occupy land in the parish, have a right, *properly*, to vote in the Vestry ; and the vote of the majority of persons present, at a regular meeting, binds the whole parish.

Such is the constitution of a vestry at common law.

Catholics excluded in 1725.

In Ireland, this constitution had remained sound, and unimpaired by religious intolerance, until the year 1725, when it was first thought proper to exclude the Catholics, by law, from *Vestries held for the repairing or rebuilding of Churches*. The provision for this purpose was introduced into an act, entitled, "An act

12 Geo. 1. ch. 9. sect. 7.

respecting Vestries for repairing and rebuilding churches.

"for the better regulating of freeholds, and for rebuilding and repairing of churches."

It directs that,

"Whereas several parishes in this kingdom are,
"and others are likely to become, non-cures, though

“ there are several Protestant families therein, for
 “ want of places of public worship, the parish
 “ churches being in so great decay that divine ser-
 “ vice cannot therein be performed, and the said
 “ churches cannot be rebuilt or repaired, *the Popish*
 “ *inhabitants of such parishes obstructing the same, by*
 “ *their out-voting the Protestant inhabitants at their*
 “ *Vestries duly appointed for that purpose; For the*
 “ preventing, therefore, of Papists having it in their
 “ power to obstruct the rebuilding and repairing
 “ churches for divine worship, be it enacted, *that no*
 “ *inhabitant of any parish in this kingdom, being a*
 “ *Papist, shall at any time hereafter be capable of*
 “ *giving his vote at any Vestry in this kingdom, to be*
 “ *held for the purposes aforesaid.*”

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Statute of 1725

Excluding Ca-
tholics from
Vestries, for
certain purposes

In 1793—this exclusion was re-enacted by a
 clause in the well-known statute, entitled, “ An
 “ act for the relief of his Majesty’s Roman
 “ Catholic subjects in Ireland.”

Re-enacted
1793.

33 Geo. 3.
ch. 21. sect. 4.

These Statutes, and others yet to be noticed,
 have effectually altered the ancient constitution
 of a Vestry ; insomuch that, at this day, a
 Vestry in Ireland consists, not of *all* the inha-
 tants and land-occupiers within the parish, but
 of such inhabitants and occupiers as happen *not*
 to be Catholics.

Constitution of
a Vestry altered.

Its present form.

2. The powers of a Parish Vestry are va-
 rious and extensive. To incur heavy expenses on

Powers of a
Vestry.

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Powers of a Vestry.

the part of the parish, to levy large sums of money upon the houses, lands, and persons of the inhabitants at large; to apportion those sums upon individuals, and to apply them at their discretion, unexamined and uncontrouled; to transact generally the local business of the parish: these are amongst the powers, vested in such persons as legally constitute a Vestry.

Bro. Eccl. Law,
180.

7 Geo. 2. ch. 7.
23 Geo. 2.
ch. 12.
25 Geo. 2.
ch. 58, &c.

They are authorised, and indeed bound, to repair the whole church; to provide seats and benches, communion table, pulpit, reading desk, chalices and other vessels for the communion, basin for the offertory, font, bells, biers for the dead, bibles, large and small, books of common prayer, register book, and various other books and accommodations: to fence and preserve the church-yard; to provide a yearly salary of £20 for the parish clerk, &c. &c.

Bro. Eccl. Law,
172.

Mod. R-p.
vol. 1. 236.
vol. 2. 222.

By Common law, if an old church is to be rebuilt, or a new church is so small as to need being enlarged, a Parish Vestry (having first received the bishop's consent, and meeting upon due notice) may make a rate *at their discretion*, for rebuilding or enlarging it, as they may think proper.

2 Geo. 1. ch. 14.
10 Geo. 2. ch. 6
12 Geo. 1. ch. 9
since made per-
petual.

By Statutes, the Lord Lieutenant and Privy Council, Archbishops or Bishops, may order new churches to be built in better places: and

when the site is to be so changed, the consent of CHAP. VII.
the majority of *Protestant* parishioners, in Ves- Powers of a Vestry.
try assembled, is sufficient to assess *any rate* 23 Geo. 3. ch. 21
without limit, for building the new church.

They may also convert a parish church into a Bro. Eccl. Law,
cathedral church: and, *vice versa*, a cathedral 174.
into a parish church: and *levy any rates for* 21 Geo. 2. ch. 8.
those purposes. 39 Geo. 3.
ch. 19.

By statute, also, Archbishops and Bishops 3 Geo. 2. ch. 11.
may erect new churches, *as they think fit*; and 11 & 12 Geo. 3.
new parishes may be attached to such new ch. 10, & 16.
churches, in case the former parish churches be Bro. Eccl. Law;
thought too small or too distant (*of which the* p. 173.
Protestant parishioners are to be sole judges.)

3. THE FORM of imposing Parish rates Form of impos-
is as follows: The churchwardens and *Pro-* ing parish rates:
testant parishioners assemble together, pursuant
to notice posted upon the church door only.

This meeting constitutes a Vestry: competent
to make any rate.

But, if no parishioners attend, pursuant to Bro. Eccl. Law,
the notice, or if the Vestry assembled *will not* 183.
make the rate, the churchwardens alone may 3 Geo. 2. ch. 11.
make it.

If the rate be not made, and consequently the
repairs not done, the churchwardens are cited
and punished by the spiritual court.

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These are the steps to be taken for ascertaining the rate, or total sum to be levied upon the parish.

Applotment of rates.

4. Next, this rate is to be applotted: that is to say, the Vestry proceeds to decide upon the precise sum, or share of the sum total, which *each parishioner* is to pay.

Brown's Eccl. Law, p. 183, &c.

This applotment is made, either by the churchwardens or by other persons named by the Vestry: and it is examinable by the *Protestant parishioners alone*. They may alter, add to, or new model it, as they think fit.

When finally settled, it is subscribed by the minister, churchwardens, and three of the *Protestant* inhabitants then present; and delivered to the churchwardens to be levied.

29 Geo. 3 c. 27.

But, by a recent Statute, the subscription of the churchwardens is rendered unnecessary: possibly lest they should happen to be Catholics, or otherwise intractable.

12 Geo. 1. c. 9.

The churchwardens must then collect the sum applotted; and, if necessary, levy it by distress and sale of goods, under a warrant signed by two justices.

Brown's Eccl. Law, p. 185.

The general principle of such applotments, in *theory*, is this: that every inhabitant, &c. ought to be rated *according to his ability*;

which ability is estimated, in a country parish, CHAP. VII.
by the value of the lands he holds in that Principle of
parish: in a town, by the value of the house he applotments.
inhabits. *But this value is also to be estimated*
by Protestants.

The actual occupiers (not the Landlords or 11 and 12
owners) are to be deemed the inhabitants, and Geo. 3. c. 16,
chargeable with every cess for repairs and taxes. Occupiers alone
This is confirmed by Statute in Ireland, which are liable.
declares, that *the occupying Lessee shall*
always pay the rate.

SECTION III.

Operation of the foregoing Statutes.

FROM this statement it appears, that Powers of taxa
according to the Laws now subsisting in Ireland, tion vested in
the *Protestant parishioners alone* are in every Protestant
case invested with a full and discretionary power, parishioners.
under the name of a Vestry,

1. To declare what sums of money, and To declare the
to what amount, in their pleasure or forbear- amount to be
ance, shall be applotted upon each parish, for levied.

CHAP. VII. *the real or ostensible purpose of building, re-*
 building, or repairing Churches, &c. &c.

Powers of Tax-
 ation.

And thus, if they please, to grant considerable sums to each other, for alleged works, claims, or services.

To applot the
 proportion of
 each inhabitant.

2. To applot such sums, when so declared, upon every parishioner, (absent or present, Catholic or Protestant) according to their opinion, or *professed* opinion, of his ability : and thus to *cast the whole applotment, or greater proportion of it, upon the Catholic Land-occupiers.*

No controul
 over Vestries,
 by oath, &c.

Be it observed, too, that the Vestry are authorized so to act, without any check or superintendence, or even the *controul of an oath* upon their consciences.

LAND-TAX
 upon the Ca-
 tholic farmers,
 &c.

It follows, that in Ireland the Protestant parishioners actually enjoy the privilege of assembling together, under the name of Parish Vestries, *to the exclusion of the Catholics*; of legislating and of imposing such yearly Land-tax upon the Catholics as they may think proper, for the alleged purposes of building, repairing, refitting, &c. Protestant houses of worship :—and of providing lucrative occupation for each other.

They may direct such undertakings, and applot such rates, as to their pleasure may seem meet. They may estimate the labour, adjust the charge, and allot the compensation, without controul. They may thus compliment each other with liberal allowances—and compel the Catholic parishioners to pay the whole amount.

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Powers of taxation vested in Protestant parishioners.

Opportunities for undue charges, grants, &c.

Here, then, is an enormous power vested in a small minority of the people to impose upon the great majority a grievous impost, annually encreasing in amount, and capable of being augmented infinitely by Law: a power vested in the wealthy Protestant to levy unlimited contributions upon the humble and industrious Catholic; and enabling those who receive, to tax, “ad libitum,” those who are compelled to pay.

Grievous Land tax.

Numerous instances exemplify the oppressive exercise of this power. We shall, however, only select a supposable case, viz.

An instance of this taxation, in a single parish.

A certain parish contains 4,000 acres of land. It is inhabited by about 20 Protestants, and 2,000 Catholics. The Protestants (as may happen) consist of the minister and his curate—the petty justice, the parish clerk, (perhaps the justice’s steward) and the Protestant tradesmen, artizans, &c. who may be also the permanent constables, policemen, publicans, &c. The Catho-

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Powers of taxation vested in Protestant parishioners.

lics are the occupiers of all, or nearly all, the land in the parish ; whether tillage or pasture, bog or mountain ; encumbered already with a rack-rent of perhaps £3 per acre, payable to some absentee landlord ; subject also to tithes, to grand-jury cesses and county charges, continually increasing—together with the odious and oppressive tax of 3d. per pound, recently imposed upon the gross rents payable by the poorest occupiers.

Six, eight, or more Protestant parishioners meet together in Vestry, and applot considerable sums, under the specious title of “ necessary repairs, buildings, &c. for the church.”

Jobs to tradesmen.

To accommodate the carpenter, new seats, doors, and other wood work, are voted : to the mason, repairs of walls, or perhaps a spire, bellfry, or other subject of employment : to the glazier, new windows : to the clerk, a salary, &c. Thus this Vestry, like an Irish Grand-Jury, creates lucrative presentments for its members : and the amount is levied rigorously upon the defenceless Catholics.

Vestry cess of 1s. 3d. per acre.

The rate thus struck is generally an acreable one : it varies, *annually*, from 6d. per acre to any higher sum. In the County of Dublin 1s. 3d. per acre is a common rate. In many places it amounts to 2s. per acre ; and it lies

wholly within the prudence and conscience of CHAP. VII.
the Vestry, whether the rate may not one day be
advanced to 10s. per acre, or more.

The rate upon 4,000 acres, at only 1s. 3d. per
acre, amounts to £250 yearly. Now, some farms
in the parish may not be intrinsically worth
more than £1 per acre. Moreover, the farmer's
clear yearly profit from any land in the parish,
upon the average of one year with another, may
not amount to 10s. per acre, perhaps not to
5s.—or possibly to one penny. Yet he may be
thus forced to pay 1s. or 2s. per acre, at the
command of his neighbouring Protestant trades-
man: and (as an aggravation) for *pretended*
repairs, or needless ornaments, of the Protestant
house of worship.

*In reality, a
Land-tax upon
the Catholics in
Ireland.*

Whether the foregoing case is or is not
imaginary, may be doubted; we appeal to facts,
and court an inquiry.

But an ordinary acquaintance with human
nature must render actual proof superfluous.
That these practices are fully warranted by the
Law: that they are encouraged by every legal
facility and impunity: that the Protestants are
(*like other men*) liable to the errors and vices, as
well as possessing the virtues of humanity: that
in many parishes a certain number of Protestants
may be prompted to resort to such practices,

*Necessary con-
sequence of the
Penal Laws.*

CHAP. VII. and that the Catholics must patiently submit to them, are facts perfectly sufficient to demonstrate the monstrous injustice of the Laws, of which we treat, and the iniquitous system of taxation, which grinds the Catholic People.

Hardships imposed upon the Catholics.

SECTION IV.

Further exclusion from Vestries.

Further incapacities of Catholics in Vestries.

THE Catholics are also incapacitated from voting, in Vestries, upon any question “ respecting the demising or disposing of the parish income or estate; or for the salary of the Parish Clerk; or at the election of any Churchwarden.”

25 Geo. 3.

ch. 58. Sect. 3.

It may appear somewhat extraordinary, that this incapacity has originated so recently, as in the year 1785: but such is the fact.

Irish Parliament of 1785.

In the very year, in which the Irish Legislature rejected Mr. Pitt’s celebrated commercial propositions, and diffused such a pompous alarm for the rights and independence of Ireland, they did not hesitate to pay this new compliment to the rights of the great majority of Irishmen.

33 Geo. 3.

ch. 21, sect. 4.

In 1793, they re-enacted it, by the Statute we have so frequently noticed.

By this Class of interdiction, they have secured, to the Protestant inhabitants in every parish :

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1. The power of demising and disposing of the parish income and estate amongst themselves, at any undervalue, and according to their discretion ; and of levying the annual deficiency upon the Catholic Land-occupiers, under the general head of *Church-rates*.

Disposal of the parish income monopolized.

2. The power of nominating the Parish Clerk—for they may withhold his salary, if not elected *solely* by them.

Parish Clerk.

3. The power of nominating the Churchwarden—so as uniformly to bestow the office upon a Protestant, where it is an office of profit or patronage, as in Dublin, Cork, &c.—and to inflict it upon a Catholic, where it is an office of expense, risk, and labour, as in Kilkenny, &c. For the Catholic, if nominated, is compellable to execute this office in person, and does not partake of the indulgence (which the Law grants to the Dissenters) of executing it by deputy.

6 Geo. I. c. 5
sect. 4.

This last-mentioned disqualification presents a fresh instance of the caprice and inconsistency

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Caprice and
contradictory
principles of
these Penal
Laws.

with which these Penal Laws abound. Catholics *may not* vote at elections of Churchwardens; yet they may (and must, if elected) exercise the office of Churchwarden. On a contradictory principle, Catholics *may* vote at Elections of Members of Parliament; yet they may not, though elected, sit or vote as such Members.

How these paradoxes are reconcilable to any rational system of Legislation, we are unable to discover.

Churchwardens

TO be compelled to undertake the office of Churchwarden, by the mandate of other persons, is a hardship of which the Catholics are entitled seriously to complain.

6 Geo. 1. ch. 5.
sect. 4.

Not only is the mode of nomination oppressive and unjust, but the office may, under certain circumstances, prove laborious, chargeable, and eventually ruinous. It is also a manifest violation of the rights of conscience to impose such an office upon any man, who cannot conscientiously concur in the peculiar form of worship adopted by the Protestant church; a principle virtually acknowledged even by the Statute, which has exempted the Dissenters from liability to this burden.

The peculiar duties of the office of Church-warden in Ireland are of an Ecclesiastical nature: and manifestly unsuitable to any person who is not a Protestant. Indeed they cannot be imposed upon a member of any other religious communion, without palpable indecorum, and disrespect towards the established form of worship. The Duties are principally these, viz.

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Duties of a Churchwarden.

Brown's Eccl. Law, p. 27.

To be guardian and keeper of the Protestant Church, and representative of the Protestant parishioners.

Burn's Eccl. Law, vol. 1.

p. 357, 358, &c.

To sue for the goods of the church : purchase goods for its use.

Have a property in such goods.

Have special charge of the repairs : of glazing of windows : paving and levelling of floors.

Gibson's Codex. Jur. Eccles. vol. 1. p. 308, 315, 644, &c.

To summon a Protestant Vestry : attend at all meetings : enter the orders of the Vestry.

To provide Protestant books of prayer, bibles, chalices, bells, communion tables, &c.

Ibid—p. 184, 218, 379, 468.

To present recusants, levy forfeitures upon absentees from church, forfeitures for not reading prayers once a month, for conventicles, &c.

To observe loiterers in church-yards, and whether the parishioners frequent the Sacrament as often as the Law requires.

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Duties of a
Churchwarden.

To prevent strangers from preaching, without shewing their licenses.

To note strange preachers in a book.

To present ministers, deserting their function.

To hinder the profaning of the church.

To preserve decency in the congregation.

Repugnant as
Catholics.

To perform numberless other offices, wholly foreign and repugnant to the habits of a Catholic, an outrage upon his feelings, an enormous tax upon his time and attention, and impossible to be effectually fulfilled without offering public and repeated violence to his conscience.

Catholics
compellable to
become Church-
wardens.

23 and 24
Geo. 3. ch. 49,
sect. 10.

Lest any Catholic might evade this office, by delaying or declining to take the necessary oaths of qualification, it has been enacted, “ That
“ Churchwardens shall be deemed legal officers,
“ and made accountable, after six weeks’ entry
“ of their election in the Vestry book ;” which entry, signed by the Incumbent and three parishioners, is conclusive evidence of the election against the Churchwarden—although had without his assent or knowledge.

Previous to this Act, the usual punishment, for his refusal to take the oaths, was by Excommunication.

A Catholic, thus nominated to the office of Churchwarden, is not only burthened with the

various official duties already enumerated, but obliged to collect the amount of the parochial applotments, estimated by Vestries in which he has no vote. He is accountable to Protestant Vestries for the entire amount of those applotments, although he may never have been able to collect them. If he fails to collect them, and to pay them over, he is to be sued by his successors—as if he had actually levied them.

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Churchwarden.

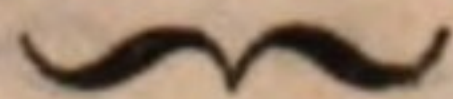
3 Geo. 2. c. 11.
secs. 3 and 4.

Thus he may be compelled to act upon, and enforce, all the applotments: perhaps, in many instances, made dishonestly, to gratify individual speculation, to transfer the fruits of honest industry to the hand of rapacious indolence.

Further, he is chargeable with all arrears due of his predecessors, if he shall not make strict proof of his having sued them for such arrears within six months: and the bishop is empowered to sue him, as if his predecessors had fully accounted with him. This odious duty is cast upon the Catholic Churchwarden, although his predecessor may (as in some instances) happen to be a fraudulent or insolvent Protestant, perhaps the brother or son of the very Rector or Justice.

21 and 22
Geo. 3. c. 52.
sect. 2 and 3.

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SECTION V.

Further Mischiefs.

*Consequential
mischief of these
Vestry Laws.*

WE have now reviewed the Laws, which
 “ exclude Catholics from all parish Vestries
 “ held for considering questions respecting the
 “ repairing or rebuilding of Churches, and
 “ making rates for those purposes: respecting
 “ the disposal of the parish estate or income,
 “ or demising it: the salary of the Parish
 “ Clerk, or the election of the Churchwarden.”

And we cannot dismiss the subject, however
 ungracious, without further illustration of the
 hardships, to which the Catholics are subjected
 by those disqualifications.

Excluded from
 all Vestries for
 whatsoever pur-
 poses.

They are, in fact and practice, prevented
 from attending even at those Vestries to
 which they are legally admissible: such as
 Vestries held for applotting road presentments,
 militia taxes, &c. for electing Parish Clerks,
 overseers, watchmen; and for other purposes
 within the general jurisdiction of Vestries.
 These Vestries are held, and proceedings there

adopted, in a manner altogether unknown to the Catholics. The *form* of a notice is indeed observed: but the Law directs this notice to be affixed to the *Church door only*, where the Catholic people never meet; and consequently they never hear of such notice. To direct the notice to be also affixed to the *door of the Catholic Chapel*, would be too great a condescension to common sense. Besides, the Law, forsooth! *supposes no such place to exist!!*

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Consequential
grievance of
the Vestry laws.

No notice of a
vestry save upon
a *Church door*.

This petty parochial tyranny, moreover, involves the middling and lower orders of the Catholics in continual vexations and contests. It furnishes plausible pretences for annually harassing and fleecing the Catholic farmer, the humble cottager, the village tradesman and mechanic. Thus it aggrieves the entire Catholic population, silently but effectually; and fully as much as the severest exactions, for even tithes or county cesses.

Pretexts for
Taxation.

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SECTION VI.

Whether these Church-rates are necessary to be levied, in the present form?

Question proposed.

Upon the necessity of these Church rates.

1. UNDOUBTEDLY this subject demands a deep and serious enquiry.—“ Do the Churches
“ and Clergy of the Protestant established
“ Religion (we venture to ask) really stand
“ in need of such support, or of contributions
“ thus imposed? Is it absolutely necessary to
“ their maintenance and preservation in Ireland,
“ that a few men in each parish shall be in-
“ vested with a summary power of levying
“ unlimited taxes upon others—of a different
“ faith? Must every modification of Church
“ government upon Protestant principles, ap-
“ plicable to Ireland, rest upon an open infrac-
“ tion of the first duties of justice, the most
“ precious rights of private property, the
“ noblest and dearest principles of personal
“ honour?”

Respectful feelings of the Catholics,

No—the Catholics will deem more respectfully of an Ecclesiastical system, adopted by so many of their fellow-citizens, than to presume, that all these ungracious and indefensible

practices, of which they complain, are vitally interwoven with its existence. They trust, that the Protestant Religion requires not, for its necessary support, such cumbrous and unwieldy machinery. Its Clergy are men of honourable feelings as well as of literary attainments—graced equally by traits of innate humanity and the acquirements of superior education: connected with all the most opulent and respected families of their country—and possessing a valuable and permanent interest in the common repose and welfare. Such men would not sanction acts of injustice against their parishioners of any description.

CHAP. VII.

Character of the Protestant Clergy.

2. Nay more—there already exists a magnificent Fund, if duly husbanded, for building, rebuilding, repairing and embellishing, all the Protestant Churches of Ireland, for twenty years to come. For, to say nothing of the present amount of the value of Church lands, Episcopal Rents, annual tithes, &c. or of the prodigious encrease which they have experienced of late years, it is perfectly notorious, that the Legislature has granted regular funds for the support of Protestant Churches, Glebes, &c. to an amount so ample, *as to render these Church-rates wholly unnecessary.*

Other Funds, in lieu of Church-rates.

Grants by Parliament, &c.

CHAP. VII.

Other Funds,
in lieu of
Church-rates.

From the year 1760 to 1800, various sums of public money, exceeding £150,000, have been granted by Parliament to the commissioners of First-fruits of Ireland, for building or repairing Protestant Churches.

During the same period, a farther sum of £100,000 has been granted for—building Glebe Houses.

These donations are continued annually, pursuant to the act of Union, which stipulates,

40 Geo. 3.

ch. 38. art. 7.

*“ That all grants for pious institutions
“ in Ireland shall continue for twenty years
“ to come, at annual sums, not lower than
“ the annual average sum to be taken for
“ the next six years preceding the Union.”*

The average in these two cases appears, from the Statutes, to have been £10,000 yearly, (viz. for Churches £5000—and for Glebe houses £5000) and has accordingly been so paid ever since.

We may therefore estimate the aggregate fund, subject to any expenditures made within the last ten years, as consisting of the following sums, at a rough calculation, viz.

1. Of the unapplied Balance, remain- ing unappropriated in the Reve- rend Treasurer's hands, in 1800, (as appears by a Statute of 1803) about - - - - -	£20,000
2. The parliamentary grant of 1803, to the board of first-fruits, - - -	50,000
3. The annual grants aforesaid, (£10,000, from 1800 to 1811 inclusive) - - - - -	110,000
4. The annual revenues, arising from the first-fruits' fund, benefices, &c. since 1800, taken at a very moderate computation, - - -	20,000
	£200,000

CHAP. VII.

43 Geo. 3.
ch. 104. &
ch. 153.
which compare

Other Funds,
in lieu of
Church-rates.

Surely, then, this splendid Fund, annually augmented by an additional grant of £10,000, ought to place the Church establishment of Ireland far above any occasion of resorting to such powers, as are exercised by Parish Vestries, under the present Laws,

3. Upon the whole, therefore, this Parochial System calls loudly for some effectual amend-ment : its prevalence is almost a reproach to the revered authorities, which appear to sanction it.

CHAP. VII.

What imposts, indeed, can be more ungracious than to exact money from the Catholic for the building, rebuilding, enlarging, repairing, altering, furnishing, and ornamenting of Protestant houses of worship—for the accommodation of a few opulent and fashionable Protestant families, who already engross all the other taxes and revenues, and nearly all the fixed property of the country.

Grievous to the
Catholic tenant,
cottager,
peasant, &c. in
Ireland.

To levy money for these purposes, or under pretence of being applied to those purposes, from the proscribed Catholic, the racked tenant, the drooping husbandman, the ragged peasant, who can scarcely scrape together an humble pittance for the bare subsistence of himself and his family, and is destitute of means to support his own pastor or place of worship—to enforce all these exactions, in the solemn mockery of a Vestry, under the guise of *pure* religion, and by the sword of the Law—positively surpasses any usage of this nature, that can be found in any other part of the globe.

To every just and feeling mind it bears an appearance so questionable, on the score of shame, decency, or even ordinary compassion (to say nothing of right and justice) as to imprint the deepest sensations. Every thinking man speaks of these things with displeasure,

and expresses his astonishment, that such a CHAP. VII.
system *could* have been framed, and enforced
too, in any Christian Land.

The people of Ireland already pay (as a plain
calculation will shew) an average sum, not less
than £200, for every family, that frequents the
public service of the established Church: or in
other words, each of these families now costs to
the people an average sum of £200 yearly, for
its religious worship! !—Yet this is submitted
to. No objection is made to this large revenue.
And surely it is enough that the Protestant
clergyman extracts a princely and encreasing
income from the hard industry of Catholic
tenants: that his glebe-house and lands are
valuable and extensive: that the revenues of the
Protestant prelates, dignitaries, and ecclesiastical
foundations in Ireland, exceed those allotted to
the Sovereign of the British empire—but it is
too much that the impoverished Catholic, perhaps
unable to build his Catholic chapel, to maintain
his own pastor, or to defray the local charges
incident to the exercise of his own religion,
is compelled to build, furnish, and embellish
churches, for his wealthier Protestant neigh-
bours, even though he and his family may
stand trembling on the brink of insolvency and

General severity
and injustice of
these vestry
cesses.

CHAP. VII, ruin. Yet such is the Law in Ireland.
*Quod certaminibus ortum, ultra metum
 durat.*

SECTION VII.

Example of Church Government.

Example of
Jamaica.

Moderate
church esta-
blishment, tho'
Protestant.

I. THE British Laws have exhibit-
 ed, in another Island (and, as it were, by
 contrast) an example of Church government,
 highly commendable. It exists in the valuable
 and well-regulated colony of Jamaica. That
 Island happily enjoys a Church establishment,
 constituted by the British sovereign and his
 Protestant bishops—which has never been com-
 plained of, either by its clergy as inadequate, or
 by the people as oppressive.

Edwards' West
Indies, vol. I.
205—7.

We conclude this chapter, therefore, with a
 brief and authentic account of the Protestant
 Church establishment of Jamaica.

“ The Island is divided into 20 parishes,
 “ which contain 18 Churches and Chapels.
 “ Each parish is governed by a chief magistrate,
 “ stiled *Custos Rotulorum*, and a body of
 “ Justices, varying in number. They hold a

“ Session of the peace once in every three months. CHAP. VII.

“ The Vestries are composed of the *Custos*, two

“ other Justices, the rector and ten Vestry-men.

“ *These ten Vestry-men are elected annually*

“ *by the freeholders.* The Vestries are em-

“ powered to assess and appropriate taxes—to

“ appoint way-wardens—to allot labourers for

“ the repair of the highways: and they nominate

“ proper persons, called Collecting Constables,

“ for the collection of the public and parochial

“ taxes.

“ Each parish is provided with a rector, and

“ other church officers. The presentation to

“ the rector's livings rests with the Governor or

“ commander in chief.

“ *In lieu of Tithes*, annual sums are paid

“ to the Rectors by the Churchwardens: which

“ sums are levied by Vestries rateably upon

“ the inhabitants. These annual sums are

“ fixed; the highest is £300: the lowest is

“ £100.

“ Besides, each parish builds and repairs a

“ parsonage house, or allows the rector £50

“ yearly, in lieu of one. Many of the livings,

“ also, have considerable glebe lands annexed:

“ as the parish of St. Andrew, which altogether

“ is valued at £1000 yearly.

Moderate and
wise Church
establishment
of Jamaica.

Vestries annu-
ally elected by
freeholders.

Commutation of
Tithes in
Jamaica.

CHAP. VII.

Provincial su-
premacy,
in Jamaica.

“ The Bishop of London is said to claim
“ this island as part of his diocese : but his
“ jurisdiction is renounced and barred by the
“ Laws of the country. The Governor, or
“ Commander in Chief, as supreme head of
“ this provincial church, not only inducts into
“ the several rectories, but likewise suspends
“ any delinquent ecclesiastic, ‘ *ab officio*,’ upon
“ application from his parishioners.”

Here is a short and simple outline of a provincial established Church, of Protestant origin: not fancied in theory, but formed to actual existence ; planted by a British Protestant Monarch, and flourishing peaceably under the shelter of British Laws and constitution.

No incroach-
ment, upon
Church re-
venues, &c.

2. We are very far from seeking any infringement upon the established rights of the Church of Ireland ; any invasion of her property ; any diminution of her dazzling splendour. The Laws have amply secured all these rights, possessions and prerogatives.—Yet may we be permitted to exclaim :

How happy for the peace and concord of Ireland, if the British colonists, who introduced the Protestant religion, had thought and acted like the colonists of Jamaica ! How many mischiefs might have been averted !

How many blessings might have poured down upon a contented and united people! May we then, venture humbly to suggest, that, even at this late day, the example of Jamaica remains to show to the provident Legislator, what may yet be practicable for the relief and improvement of Ireland: how the Irish people may be relieved, and the Protestant clergy retained in affluence: so as that the ease of the one may be rendered compatible with the due splendour of the other—and all may again enjoy freedom of Conscience, unfettered and untaxed, without encroaching upon established rights, or violating settled usage or opinion.

Salutary example of the Church government in Jamaica

“*Moniti meliora sequamur.*”

PART II.

2

CHAP. VIII.



CHAP. VIII.

*“Of the Laws, which forbid the Catholics
 “to have or use Arms, for the defence
 “of themselves, their families, and
 “dwellings, upon equal terms with the
 “Protestants.”*

SECTION I.

Prohibition
 against Catho-
 lics having
 arms, &c.

WE are now to treat of a disqualifi-
 cation, which infringes the personal security of
 the Catholic, and bereaves him of one of the
 most valuable auxiliary rights of a citizen.

1 Blackst. Com.
 144.

1 Will. and
 Mary, st. 2.
 S. 2. *English.*

According to the fundamental principles of
 the constitution, recognized by solemn Statutes,
*every citizen is entitled to have arms for his
 defence, suitable to his condition and degree.*
 This is no more than a public allowance of the
 natural right of resistance and self-preservation:
 only to be exercised, however, when the
 sanctions of society and laws are found insuffi-
 cient to restrain violence or oppression.

In Ireland, the Laws impose grievous restrictions upon the exercise of this natural and constitutional right by the Catholic Inhabitants: whilst no restraint or condition, of this nature, touches the meanest individual of the Protestant community.

CHAP. VIII.

Contrast between the condition of Catholics and Protestants.

The Catholics *alone* are marked by disqualification: and *this upon the sole principle of their religious faith*, as will appear from the following abstract of certain Irish statutes:

2. In 1695, an Act was passed, entitled, 1695--First Act, for disarming Catholics.
 "An Act for the better securing the government, by *disarming the Papists*." By this Act, all Catholics within the kingdom of Ireland were required to *discover and deliver up*, by a certain day, to the justice or civil officers, *all their arms, armour and ammunition*, of every kind. After that day, *search might be made* in their houses, &c. for arms, &c. concealed, or suspected to be concealed; and any two justices, or a mayor, sheriff, &c. might grant a warrant of search, and *compel any Catholic*, suspected of having concealed arms, &c. to appear before them, and to answer the charge or suspicion, upon his oath.

7 Will. 3. ch. 5.

CHAP. VIII.

First Statute,
disarming the
Catholics.

7 Will. 3. ch. 5.
1695.

Penalties are enacted against every Catholic, refusing or neglecting to discover and deliver up his arms, or refusing to answer, or obstructing the search—or not appearing to be examined, upon summons, or not answering upon oath, &c.—and also upon every person who shall have any arms, &c. to the use of, or in trust for, any Catholic, viz.

For the first offence, a fine of £30, and one year's imprisonment: for the second offence, all the pains and penalties of persons attainted in a Præmunire.

Sect. 8, 9.
Makers of arms.

Further, by this Act, every *maker of fire arms*, locks or barrels, swords, knives or other weapons, is forbidden to take any *Catholic apprentice*, under a penalty of £20 upon the master, and £20 upon the apprentice.

10 Will. 3. c. 8.
sect. 4.

Second Statute,
1698.
Gamekeepers.

In 1698, another Act was passed, entitled, “An act for the preservation of game;” which directs, that “No Catholic shall be employed as fowler for any Protestant, or shall have, keep, use, or carry any guns or fire arms, under colour or pretence thereof.”

13 Geo. 2. ch. 6
sect. 1, 2, 10.

Third Statute,
1739.

In 1739, it was thought proper to re-enact these prohibitions: and, accordingly, an Act was passed for explaining, amending and making more effectual, the two preceding Acts of 1695 and 1698. By this Act, the fine upon a Catholic

for having arms, &c. was raised to £50; and it was directed, that in case the convicted Catholic should not pay this fine within one month after the expiration of his year's imprisonment, the informer should be paid the sum of £10, to be presented by the Grand Jury—and levied upon the Catholic Inhabitants of the district.

CHAP. VIII.

Statutes for
disarming the
Catholics.

In addition to the powers (contained in the former Acts) of searching for arms, &c. at the will and pleasure of the Justice, &c. this Act renders it imperative upon the Justices and corporate officers (under certain penalties) to issue their search-warrants once in every year, authorizing and commanding all high and petty constables, in all the baronies, parishes, and divisions of Ireland, together with any other two persons to be nominated by them, to make close and diligent search, according to the directions of the former Acts, for all arms, armour, and ammunition, in the possession, keeping, or power of all Catholics, within their respective jurisdictions.

Sect. II.

Powers to Jus-
tices, &c.

Annual search
for arms, &c.

It was further enacted, that “No Catholic should have or keep for sale, or otherwise, or under any pretence whatsoever, any war-like stores, sword blades, barrels, locks, or

Sect. II.

Not to keep
stores, &c.

CHAP. VIII.

Sect. 14.

Statutes for
disarming the
Catholics.

*stocks of guns or fire arms, under penalty
of £20 fine, and one year's imprisonment."*

Further, "That in case any Protestant servant
of a Catholic should, with the consent, di-
rection, or privity of his master, carry or keep
any arms in his custody, the master and servant
should be, each, liable to the penalty of £20
fine, and one year's imprisonment."

15 & 16 Geo 3.
ch. 21, sect. 15.

In 1775, a Statute of additional rigour was
enacted, entitled, "An Act to prevent and punish tu-
multuous risings of persons within this kingdom."

1775.

Rigorous modern
Statute.

"By this Act *any one justice, &c.* is empowered, within
his county or jurisdiction, from time to time, *as well
by night as by day*, to search for, seize, and carry
away, or cause to be searched for, seized, and car-
ried away, all arms and ammunition whatsoever,
belonging to, or in the custody or possession of any
Catholic (not duly licensed) or in the hands or pos-
session of any person in trust for any Catholic; and
for that purpose to enter into any dwellinghouse,
out-house, field, or other place, belonging to any
Catholic, or reputed Catholic, or belonging to any
other person whatsoever, where such justice shall
have reasonable cause to suspect that any such arms
or ammunition shall be concealed."

Such arms and ammunition, so seized, shall
be preserved for the king's use.

If any justice, &c. after such search made,
shall still have cause to suspect, that any arms

or ammunition remain concealed and not seized as aforesaid, he is required to cause the suspected person to be brought before him, and examined upon oath concerning the same.

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Statutes for
disarming the
Catholics.

If any such Catholic or other person, upon such search, shall refuse to deliver up his arms, or to discover to the justice, &c. what arms he has, or what arms any other person keeps for him, or shall hinder the delivering thereof, or shall refuse to answer upon oath when questioned, or shall refuse or neglect, without reasonable cause, to appear before the justices, &c. upon being summoned in writing, to be so examined, he shall be punished, “by fine and imprisonment, or by such corporal punishment of pillory or whipping, as the Court (of Sessions) before whom he shall be tried, may, in their discretion, think proper”

Sect. 17,

Punishments;
fine and im-
prisonment,
pillory and
whipping.

This Act was made perpetual, in 1800.

40 Geo. 3. c. 96.

SECTION II.

What mitigation of these severe Laws.

I. HAVING thus stated the Laws, which have debarred the Catholics of Ireland, generally, from the use of arms, we proceed to inquire,

How far miti-
gated.

CHAP. VIII. how far this prohibition has been since mitigated.

Effect of the Statute of 1793.

Prohibition re-enacted against the poorer Catholics,

33 Geo. 3.
ch. 21, sect. 6.

Catholics seized of 100l yearly of freehold estate, or possessed of 1000l. value of personal estate, are qualified.

Also certain Catholics, if registering at Sessions, &c.

The Statute of 1793, (to which we have already adverted, and entitled, “An Act for the relief of his Majesty’s Roman Catholic subjects in Ireland”) *re-enacted this prohibition against the humble and unprotected Catholics,* but qualified and almost removed it, upon certain conditions, as to the wealthy Catholics. It declares, however,

“That nothing therein contained shall extend to authorize any Catholic to have or keep in his hands or possession any arms, armour, ammunition, or any warlike stores, sword blades, barrels, locks, or stocks of guns or fire arms, or to exempt such person from any forfeiture or penalty inflicted by any Act respecting arms, armour, or ammunition, in the hands or possession of any Catholic, or respecting Catholics having or keeping such warlike stores (*save and except Catholics, seized of a freehold estate of £100 yearly, or possessed of a personal estate of £1000 or upwards, who are hereby authorized to keep arms and ammunition, as Protestants now by Law may: and also except Catholics possessing a freehold estate of £10 yearly value, or £300 personal estate, who shall take the*

“ Oath of 13 and 14 Geo. 3. at the Sessions, and CHAP. VIII.
 “ in open Court swear and subscribe an affidavit
 “ of the fact of such property)—and Catholics, What Catholics are qualified to have arms.
 “ so qualifying, may keep arms and ammuni-
 “ tion, as Protestants may—so long as they con-
 “ tinue to possess such property.

2. From the result it is manifest, that Two classes now qualified.
 there are only two classes of Catholics in Ireland
 legally authorized, at this day, to have or use
 arms or ammunition, as Protestants may have
 and use them, viz.

1. Such, as are seized of a freehold Qualifications necessary.
 estate of £100 yearly, or possessed of a personal
 estate of £1000 value—and take the Catholic
 oaths, &c. prescribed by the Statute of 1793.

2. Such, as (being seized of a freehold
 estate of £10 yearly and less than £100
 yearly, or being possessed of a personal estate of
 £300 and less than £1000 value) take the oath
 of 13 and 14 Geo. 3—and also swear and sub-
 scribe an affidavit, *in open Court*, verifying the
 value of their property; and also qualify, pur-
 suant to the Statute of 1793.

All Catholics, who are not comprehended
 within these two classes, remain still liable to
 every hardship and severity imposed by the for-
 mer Statutes of 1695, 1698, 1739, and 1775.

CHAP. VIII.

Punishments
upon Catholics
unqualified by
property, &c.

These hardships and punishments, we have seen, consist of the probable abuse of Search-warrants, liability to intrusion and violence by the meanest officers, at all hours of the night and day; attendance before justices upon summons; punishment of imprisonment, *pillory and whipping*, in case of non-attendance, or neglect in delivering up arms; partiality of justices; disability to act as a fowler or game-keeper, or to keep arms for any person; to keep arms in the hands of a Protestant servant; to be a cutler or cutler's apprentice, a gun-smith, or a gun-smith's apprentice; to keep for sale, or otherwise, any warlike stores, ammunition, sword blades, barrels, locks, or stocks of guns or fire arms.

Ante, p. 174—
177.

SECTION III,

Advantages herein, enjoyed by Protestants over Catholics.

The meanest
and poorest
Protestants are
all qualified,
without restraint
or exception.

1. THE Laws, which thus disqualify the Catholics from having or using arms, are felt the more grievously in Ireland, because Protestants of every class and degree, even the meanest, are authorized to have and use arms of every kind,

without restraint or distinction: nay, they are CHAP. VIII.
 in various ways actually provided with arms—at
 the public expense.

This right of having and using arms is This secured by
Stat. 1 Will. and
Mary, and
 secured to the Protestants, not only by the ge-
 neral principles of the Constitution, and by the
 declaratory Act of the 1 William and Mary,
 Stat. 2. ch. 2—but also by a special Statute.

By this statute, after reciting, “That the 19 Geo. 2. ch. 1.
Ante, p. 174.
 “rigorous execution of the Act of 10 Will. 3.
 “ch. 8. had been the means, whereby many
 “Protestants had been discouraged from pro-
 “viding themselves with, and keeping arms in
 “their hands, and that others had their arms
 “taken from them *under pretence* of executing
 “that Act; whereby many Protestants had been
 “rendered ignorant of and unacquainted with
 “the use and exercise of Arms, and the Pro-
 “testant interest had thereby become weaker
 “and more defenceless—It is enacted, That,
 “notwithstanding the said Act, all Protestants
 “may keep and use arms necessary for the
 “defence of his Majesty, the established go-
 “vernment of the kingdom, their persons and
 “properties.

“And that no magistrate shall be empowered,
 “under the said Act, to take arms from any
 “Protestant.”

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Protestants supplied with arms, at the public expense.

2. We shall next see, that the Protestants are amply supplied, at the charge of the Irish People, with those arms and offensive weapons, which they are thus authorised, by positive Law, to have and use in any quantity.

17 Geo. 2. ch. 6. sect. 5.

For, in the first place, the Grand Juries of counties are authorized to nominate 16 *Protestant* sub-constables of every barony, with salaries of £24 yearly, to be levied upon the counties—that is to say, for the far greater part, upon the *Catholic occupiers* of land. These persons are to have proper arms, to exercise the powers of constables, &c. &c.

27 Geo. 3. c. 40.

Protestant sub-constables.

Now, upon a reasonable estimate, averaged at 10 baronies to each of the 32 counties, this allotted number of 16 *Protestant* sub-constables to each barony, would amount to a total number exceeding 5000 armed *Protestants*—dispersed throughout Ireland—of low degree—invested with the powers of executing the Laws—and also, indeed, with too many opportunities of violating them.

Ibid. and

32 Geo. 3. c. 16.

These *Protestant* constables, and as many *Protestant assistants* as the justice may deem necessary, are allowed fire arms, and a hire of 3d. per mile to each, for conducting persons to gaol, under a *Mittimus*. These charges are also to be levied upon the counties!

Here is good pecuniary encouragement to accept and use arms, thus tendered to the lower Protestants.

CHAP. VIII.

3. Next—Arms are bestowed in large quantities upon various corps of Protestants in Ireland—called Volunteers corps, although they receive pay—and Yeomanry corps, although formed, in numerous instances, of persons who are not yeomen. Every Protestant in Ireland, fit to bear arms, is a member of one of these corps; or may become a member, whenever he pleases. On the other hand, the Catholics are carefully excluded, as long as Protestants can be procured, willing to enter.—This system prevails, generally in the Northern counties;—very much in Dublin and other cities—and is coeval with the institution of these corps in 1796.

Corps of armed Protestants, called Yeomanry.

Corps filled with Protestants.

Catholics excluded.

This exclusion of Catholics produces a further injury. For, whilst they are completely exposed to the Militia Ballot; and, if drawn, are compellable to abandon their homes and families for military hazards—the Protestants may enjoy full protection from the ballot, by virtue of the parliamentary exemption in favour of all members of these corps.

Protestants protected from Militia Ballot.

Thus every Protestant in Ireland is, or may be, sheltered from the Militia ballot: the Ca-

CHAP. VIII.

Catholics unprotected.

tholic is unprotected: and hence it naturally follows, that scarcely a Protestant private can be procured for the service, even in those Northern counties.

As Members of these corps, they may plead their right to be exempted: and this plea is conclusive.

North of Ireland disgraced by sanguinary outrages against the Catholics.

The most turbulent or ferocious may keep and use Arms, without limit or restraint: and the dreadful scenes of riot and massacre, of skirmishes with the regulars and militia, and of periodical outrage, which the Northern counties of Ireland (especially Armagh, Antrim, Tyrone, &c.) so frequently exhibit, are melancholy proofs, that these Arms are, in too many instances, misapplied to purposes of lamentable aggression and mischief.

SECTION IV.

Further infringement of this Right, by recent Statutes.

General Laws of restraint.

1. WE shall advert to certain Statutes, abridging the right of the people of Ireland, generally, to have or use arms—which Statutes

are directed, however, and enforced *in practice*, CHAP.VIII.
against the *Catholics alone*.

In substance, they direct as follows, viz.

General re-
straints.

“ All persons shall deliver to the Justices at the 36 Geo. 3. c. 20.
“ Sessions written lists of their arms, &c. specifying
“ the places where such arms are kept, and verified
“ by them upon oath. Which lists shall be registered
“ in the books of the Clerks of the Peace.

“ They may afterwards be brought before *any two*
“ *Justices*, and examined by them upon oath, touch-
“ ing such lists—from time to time, and as often as
“ the Justices may think proper. After such scrutiny
“ their houses, &c. may be closely searched for
“ arms.”

“ They are further required, by the Statute of 1807, 47 Geo. 3.
“ (if not previously registered as above) to deliver to sess. 2. ch. 54.
“ the Justices at the sessions certain written Notices, Temporary—
“ stating the number, quantity and descriptions of but continued
“ their arms, &c. and where kept—also to annex to 1812, and
“ affidavits, verifying such notices, and stating a end of then
“ belief, that they are by Law entitled to keep next session, by
“ arms. 50 Geo 3. c. 109

“ *If the Justices think proper, they may grant to*
“ *each of such persons a license* to retain a certain
“ quantity of his arms. If not, they may refuse such
“ license, and the interdicted person may appeal—to
“ the next Sessions.

“ The Justices may *withdraw the license whenever*
“ *they please* ; and the interdicted person is punish-
“ able—in case he neglects to deliver up his regis-

CHAP. VIII. "tered arms to the next resident Justice, *within*
 " *48 hours afterwards.*"

General Laws,
 enforced against
 the Catholics
 alone.

" Persons having arms, not duly notified and
 " registered, as directed, forfeit the arms: and are
 " punished—for the first offence, with £10 fine, or 2
 " months' imprisonment: for the second, £20 fine,
 " or 4 months' imprisonment."

" *Any one* Justice, upon reasonable suspicion, may
 " by warrant authorize any person to search for con-
 " cealed arms, and to enter all houses for that purpose;
 " and to *break open houses*—if not admitted within a
 " *reasonable time after demand.*"

50 Geo. 3.
 c. 109.

2. The foregoing restrictions have been
 continued for two years, by a Statute enacted in
 1810—with, however, some slight modifica-
 tions, viz.

Modification of
 the Act of
 1807.

" No Justice is to authorize another person to
 " search for arms, &c. (under the authority of the
 " Statute of 1807) without a warrant for that purpose
 " from the Lord Lieutenant or Chief Secretary."

50 Geo. 3, ch.
 109.

" *Two* Justices (instead of *one* only, as before)
 " may search personally for arms, &c."

" The Powers (which the Statute of 1807 had
 " vested in any *one* Justice) of summoning, from *time*
 " *to time*, any licensed person to deliver an inventory
 " of his arms, &c. and of examining him upon
 " oath, &c. are, in future, to be exercised *only once*;

“but the *Justices of the Sessions* may exercise the powers, as often as they please.”

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General re-
straints, en-
forced against
Catholics alone.

3. These modifications are, however, illusory. For, it is observable, that the warrant of the Lord Lieutenant or Secretary is rendered necessary only in cases, where a Justice makes search for examination, &c. under the authority of the *Statute of 1807*—but, where he acts by virtue of former Statutes, he is not subject to this controul.

Therefore, no alteration is made touching the enormous powers which the rigorous Statute of 1775 (already cited) has vested in any one Justice—of “searching for, seizing, and carrying away (at any hour of the day or night) all arms and ammunition whatsoever, belonging to, or in the possession or custody of, any Catholic (not duly qualified and licensed) or in the hands or possession of any person in trust for any Catholic; and, for that purpose, of entering into the dwellinghouses, &c. of Catholics and others—and of summoning Catholics at his discretion, whenever they appear to infringe the Statutes, which forbid them to have or use arms, ammunition, &c.”

15 & 16 Geo. 3:
c. 21.
sect. 15—17.

No modification
of the statute of
1775.

See Ante,
p. 175, &c.

CHAP. VIII.

Hostile operation of these Laws

SECTION V.

Consequential operation of these Prohibitions.

1. THESE LAWS, then, inflict countless injuries and insults upon the defenceless Catholic.

The Catholics continually endangered.

They place him altogether at the mercy of others: empower the Justice and the Constables to break open his dwelling house at *midnight*: to search every part of it: to summon him to a public scrutiny upon oath: to deprive him of arms: to criminate his truth and loyalty: to mark him with fine and imprisonment—to consign him, at discretion, to ignominious punishments—*pillory and whipping*.

Liabie to pillory and whipping.

Cottager, peasants, &c. exposed.

They expose the Catholic cottager, petty farmer, artizan and peasant, to repeated outrages, wanton and infuriated: and this exposure not merely invites, but actually produces, most barbarous excesses. His wife, children, dwelling and property, are continually unsafe.

In many districts this is tragically exemplified. Where the armed ycomanry are exclusively Protestant—where arms are profusely dealt out to Protestants *alone, without distinction of*

property, or character—and where religious virulence is sanctioned or cherished by an intolerant Administration—there the perilous condition of Catholic families can scarcely be imagined.

CHAP. VIII.

Hostile operation of these Laws.

The Northern counties of Ireland have accordingly exhibited frequent scenes, shocking to every humane mind. There, periodical enormities disgust the eye and ear. Atrocities the most unprovoked usurp the merit of zeal for the constitution. The meridian Sun is witness to murders, of industrious and peaceable Catholics, perpetrated by armed men—unpunished: perhaps protected. Thus, a cruel bigotry protracts the convulsion of extensive districts: sanguinary conflicts debase the people—and the sway of ferocious anarchy supersedes the mild influence of Christian charity. How just, tho' indignant, was the exclamation of the celebrated Doctor Samuel Johnson!

Anarchy in the North of Ireland.

“The Irish,” said he, “are in a most unnatural state; for there we see the minority prevailing over the majority. *There is no instance, even in the Ten Persecutions, of such severity as that which has been exercised over the Catholics of Ireland.*”

Boswell's Life of Dr. Johnson

CHAP. VIII.

No other people
equally ag-
grieved.

Vassals in
Russia.

Ottoman em-
pire.

The *Koran* for-
bids persecution

Mahomet's con-
duct in Greece.

De Page's tra-
vels, vol. 2. 35.
8vo. 1791.
South America.

Slaves in West
Indies, &c.

2. Perhaps no other Nation in the uni-verse contains a class of people, immersed in a state so gloomy and so grievous.

In Russia, each vassal is protected by his Noble: no other man can oppress him with impunity.

In the Ottoman Empire the masters are few, indolent, and of mild natures: the practical condition of the subjects, and even of the Christians, is generally tranquil and safe. The

Koran does not permit men, who have once laid down their arms, to be vexed for their religion.

The language is simple, but emphatic—"Oh, " *Infidels! observe your Law, and I will " observe mine.*"

Mahomet the Second, when he conquered Greece, permitted the inhabitants (though bound by no previous stipulation) to enjoy their religion without disturbance—a permission, neither revoked nor evaded, *to this day.*

In South America, the Spaniards have always admitted the Peruvians, &c. to all civil offices, and to every benefit of their Laws and constitution—without restraint of any kind.

Even in those regions, where human liberty forms a subject of avowed and legalized traffic, the sable Slave is the object of his owner's

peculiar protection and solicitude : his person is CHAP. VIII.
 safe ; his maintenance and dwelling ensured ; Slaves in West Indies, &c.
 his health, and even amusements, consulted ; his how treated—
 merits rewarded : and if, by industry or chance,
 he can acquire property (as frequently happens)
 he may purchase his freedom, and, with it, all
 the rights and respectability of a free citizen.

But the hapless Catholic, in Ireland—under
 the eye of civilized Europe—what a contrast
 does his lowly condition present ! * * * *

* * * * * we dare not
 attempt the picture.

In his vain struggles to shake off his odious Compared with the condition of the Catholics.
 thralldom—to extricate himself from the toils
 of Penal Law—he meets new impediments con-
 tinually arising, new suspicions to be allayed,
 new chagrins and mortifications to be endured.
 The Laws have so environed and enchained
 him, that, in the dreary prospect of futurity,
 no glimpse of freedom opens upon his longing
 eye, no chance of even personal security against
 the coming evils—save in the choice of acts,
 which his forefathers have ever abhorred—
APOSTACY, OR TREASON !

Dire to the Catholics, ominous to these Realms, Dangers of this system.
 the hour of exigency—the moment of urgent
 call—*when the alternative must be chosen ! ! !*

CHAP. VIII.

The Philosophic historian presents an awful warning against these perilous experiments upon the passiveness of an ill-treated People,

Liv. Lib. 3.

*“ Ne nimium in metu alieno spei po-
 “ namus, ubi graviora quæ patiantur
 “ videri jam hominibus, quam quæ
 “ metuant.”*



CHAP. IX.

“ Of the Laws, which aggrieve the Catholics,
 “ touching the Administration of Justice,
 “ and Trials by Jury.”

SECTION I.

1. THE impartial Administration of Justice, which secures both our persons and properties, is the great end of civil society. One of the principal duties of every Nation, is that of Justice.—It is the common bond of confidence and security amongst mankind: “ *soci-*
 “ *etatis humanæ vinculum.*” It ought to be, not merely chaste, but *not liable to suspicion.*

“ If, however,” says Blackstone, “ the
 “ Administration of Justice be entrusted to a
 “ select body of men—as for instance, to men
 “ generally nominated by the crown, or such as
 “ enjoy high offices under the crown—their

Cicer. Offic.
lib. 3.

Vattel. lib. 1.

Black. Comm.

vol. 3. 379--383

Montesquieu's

Esprit des Loix,

lib. 11, ch. 6.

Blackstone's
sentiments.

CHAP. IX.

Sentiments of
Sir W. Black-
stone.

“ decisions, in spite of their own natural integrity, will have frequently an *involuntary* bias towards those of *their own* rank : for it is not to be expected, from human nature, that the few should be always attentive to the interests and the good of the many.”

applicable to
Ireland.

How forcibly do these observations apply to the Administration of Justice in Ireland !—where the Judges and Juries are not only nominated by the Crown, or by officers dependant upon the Crown, but selected upon a narrow principle of religious jealousy, which excludes the Catholics, the great majority of the people—however upright and deserving of implicit confidence.

Outward resemblance between England and Ireland, in the Administration of Justice.

2. A superficial observer may, perhaps, not readily perceive the causes or extent of the complaints occasioned by the Laws in this respect. For there appears, in *theory*, but little variance between the Laws of Ireland and those of England : the mere outward forms of Justice are nearly alike ; the scale of judicial station, the ostensible principles of adjudication, the general regulation of Trials by Jury, strikingly correspond in both countries. Each has its Chancellor, Twelve Judges, Recorders, Chairmen of Sessions, Justices of the Peace, &c.

Each also has its Trial by Jury, and returning officers, &c. CHAP. IX.

Justice in The peculiarly imperfect Administration of Ireland is, however, deeply felt, and universally complained of, by the Catholics. It arises from a material difference in the application of the forms of Justice, and of the principles of decision—owing, partly, to the exclusion of the Catholics from certain Offices already noticed, and partly to the hostile temper, in which the Laws are frequently administered. Imperfections of Justice in Ireland.
The causes.

To preserve perspicuity, we shall consider the Law in this particular, and its operation, in the following order, viz.

1. As administered by persons, holding Judicial situations.

2. As administered through Trials by Jury.

SECTION II.

As to Persons, holding Judicial Situations.

1. According to existing Law in Ireland, every Catholic is incapacitated to hold or exercise any of the higher judicial situations, viz. Lord Chancellor ; Master of the Rolls ; Twelve Catholics incapacitated.

CHAP IX. ^{Catholics incapacitated.} Judges of the superior Courts; Attorney and Solicitor General; Serjeants at Law; King's Council; Masters in Chancery; Chairman of Sessions for the County of Dublin; Sheriffs; Vicars General; and other offices of the like nature. Further, by the natural operation of the Anti-Catholic code, the Catholics are studiously excluded from the remaining, tho' minor, judicial offices, which were apparently rendered accessible to them by the Statute of 1793; such as those of the 31 Chairmen of County Sessions; 25 Commissioners of Bankruptcy, &c. &c.—with scarcely a single exception.

Ante, ch. iv.

^{All judicial situations occupied by Protestants.} These Judicial situations, controuling the entire Administration of Justice in Ireland, are at present occupied by Protestants; and, under the existing Laws and System, they must continue to be occupied by Protestants alone.

Not fairly selected from the Protestants at large.

Were the selections to be made *fairly* from amongst the Protestant community at large, or founded upon the just claims of learning, diligence, experience, public and private virtues—we have no hesitation in declaring our confidence that, in that case, those situations would be well and worthily filled. The Catholics could, then, only complain of the restricted competition for Office, already stated. But they might, at all events, rely upon a pure and un-

Chap. iv.

biased Administration of Justice, at the hands of their Protestant fellow-countrymen, fairly selected.

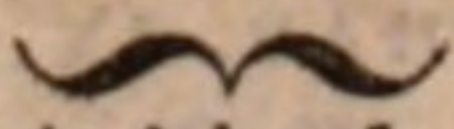
CHAP. IX.
Selected for
hostility to Ca-
tholic freedom.

If, however, the selections happen, in too many instances, to be guided by a different rule—if the persons selected be chiefly recommended to preference by their known hostility to Catholic freedom—then, indeed, many consequences may be apprehended, of far more serious injury to the interests of individuals, and to the purity of the general Administration of Justice.

2. Let us look into a few leading facts : The cause,

It is notorious that, during the last 20 years, the prominent feature of every Administration (with little exception) has been that of jealous distrust of the Catholics. It has been a fixed and leading principle, to repress the Catholic, to prefer the Protestant. This has been peculiarly the case, since the accession of Mr. Perceval's ministry, in March, 1807. An Administration of this character naturally applies its favorite criterion to every candidate for promotion; whether in Church or in State—Protestantism alone is not a sufficient merit; it must be a zealous Anti-Catholic Protestantism.

Hostile Admi-
nistration in
Ireland.

CHAP. IX.

 Principle of
 selection for
 judicial offices.

Thus—to a vacant Sec—the recommendations may be—not merely profound learning, exemplary piety, or Christian benevolence—but some vote, or sermon, or tract, against the fallen Pope, and the alarming doctrines of invocation of saints, &c. &c. In like manner, a vacant seat upon the bench of Justice may prove very accessible to the candidate, who has most zealously opposed Catholic Petitions, most vehemently prosecuted Catholic individuals, or most intimately identified himself in society with the fiercest partizans of intolerance.

In this way, a spurious excellence may be created: the most crafty adept stiled a *loyal and constitutional* man; and accordingly noted for speedy advancement. Whilst his Fellow-Protestant, more learned, more estimable in the eyes of all good and honourable men, may be doomed to neglect—if he dares to sympathize in the sorrows of his country and her inhabitants.

Instances not
 necessary.

Need we particularize individual instances, to illustrate this view of Judicial appointments? Or will it be doubted, by any person acquainted with human nature, that the characteristic politics of the existing administration must always influence, very decidedly, the

selections to Judicial offices—in a neglected province like Ireland? CHAP. IX.

3. Having stated a principle of selection, we proceed to shew, by whom the power of selection is exercised. *Power of selection, in whom vested.*

Now, the Lord Lieutenant of Ireland nominates, or effectually recommends, to the offices of Lord Chancellor, the Twelve Judges, the Chairmen of County Sessions, Attorney General, Solicitor General, Serjeants at Law, King's Council, Sheriffs of Counties, &c, *Lord Lieutenant.*

The Lord Chancellor appoints the Masters in Chancery, the Commissioners of Bankruptcy, Justices of the Peace, &c, *Chancellor.*

The Protestant Corporations nominate the Recorders, Sheriffs, Mayors, Aldermen, &c. of the respective towns and cities. *Corporations.*

The Protestant Bishops nominate the Judges in all the Spiritual courts, exercising ample jurisdiction in temporal matters: as Tithes, marriages, wills of personal property, &c. *Bishops.*

To pretend, that a zealous Anti-Catholic Administration, working actively during 20 years, with steadiness and vehemence, in pursuit of one favourite object, has omitted to fill all, or the far greater part of, the Judicial vacancies upon their own peculiar principle of hostility *Probable conduct of an Anti-Catholic Administration.*

CHAP. IX. against Catholics and friends of Catholics—
 would be to hazard an assertion, truly improbable in every point of view.

Distinguished
 exception of im-
 partial and libe-
 ral judges in
 Ireland.

How they have been filled, we forbear to complain; but, always pleased in recognizing what is praiseworthy, we are bound distinctly to except, from our general observations upon judicial appointments, the present Master of the Rolls (Mr. Curran), three or four of the 12 Judges of the Law Courts, and the great majority of the Chairmen of the County Sessions. Amongst these men, as indeed amongst the Irish Bar in general, is to be found as large a proportion of integrity, love of country, and of every virtue, public and private, as has ever dignified or adorned a People.

Powers of in-
 juring and be-
 nefiting.

4. It is scarcely necessary to enumerate the powers, vested in the possessors of all those Judicial situations—or their opportunities of injuring and of benefiting individuals, or classes of individuals. They are commensurate with the jurisdiction, respectively attached to those situations.

Instanced in the
 Lord Chancel-
 lor's powers.

An English Lord Chancellor, for example, may discover that a large portion of the Landed property of Ireland now belongs to the Catholics; and that it encreases annually.—

He may further observe, that their tenures are mostly derivative interests, held by virtue of leases, or agreements for leases, or for renewals of leases—under ancient and low rents.

CHAP. IX.


Powers of Lord
Chancellor.

He may, therefore, as a zealous guardian of the church establishment, and a promoter of its interests, very conscientiously assume it to be his duty, upon principles of *public policy*, to favour the Protestants, and to repress the Catholics; and, accordingly, *to lean towards the landlords, and against the tenants*. Guided by an honest, tho' mistaken, sense of duty, he may for this purpose introduce a novel system of judicial decisions, calculated to impeach and invalidate leases, agreements for leases and for renewal of leases. He may establish this system so effectually, as to sanction a general disposition towards *Lease-breaking*: subject the tenantry to ruinous litigation; and, eventually, effect a partial subversion of leasehold property in Ireland—and all this without any foundation in the tenant's misconduct, or negligence of the usages prescribed by antecedent Law.

His means of
injuring the Ca-
tholics.

He may adopt the same principle, in exercising the great discretionary powers, attached to his high office.

In the appointment of Guardians of Wards of Chancery, he may feel it his duty to observe

CHAP. IX.

 Powers of Lord
 Chancellor.

a marked distinction between Protestants and Catholics.—That he should nominate Protestant guardians to Protestant children, is perfectly natural and proper—but he may, further, nominate Protestant guardians to Catholic children, remove the latter from Catholic schools, and prohibit all intercourse between such children and their Catholic kindred. Thus the Statute 2 Anne, ch. 6. disabling Catholics from being guardians, may (though partially repealed by the Statute 21 and 22 Geo. 3. c. 62.) be practically restored to full vigour.

His means of
 injuring the
 Catholics.

The same Anti-Catholic principle may govern him in his general superintendence of the Commissions of the peace. By the Statute of 1793, Catholics are nominally restored to the capacity of being Justices of the Peace. A Chancellor may, however, counteract this Statute: he may carefully avoid nominating a single Catholic to the commission—however qualified by property or high character.

These and various other symptoms of well meant partiality (too numerous to particularize) may appear conspicuous in the judicial acts of a Chancellor, influenced by the genuine spirit of this Penal code.

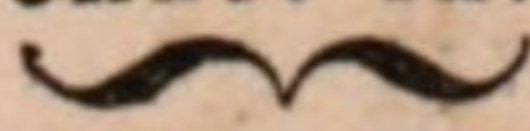
5. With equal force, this observation CHAP. IX.
 applies to the remaining Judicial situations : Court of King's
Bench.
 and particularly to those in the Court of King's
 Bench.

The Jurisdiction of this Court is high and its powers.
 transcendant. It is the principal court of cri-
 minal Judicature, known to the Law.—It takes
 cognizance of all criminal causes, from high
 Treason down to the most trifling misdemeanor
 or breach of the peace.—It superintends all
 civil corporations: controuls all magistrates ;
 and is authorized to protect the liberty of the
 subject, by speedy and summary interposition.

If the Crown should think proper to institute
 criminal proceedings against Catholic indivi-
 duals—for alleged misdemeanour—breach of the
 peace—public libel—seditious words or acts—
 high treason, &c.—If a Catholic should happen Its opportunities
of partiality.
 to be involved in a dispute with a corporation,
 or a justice of the peace, &c.—If application
 be made for a mandamus, to enforce an alleged
 right—or a criminal information to punish op-
 pressive partiality or other misconduct in a
 magistrate—the Court of King's Bench, in all
 these cases, becomes the great tribunal of judg-
 ment, and exercises a summary discretion.

The Judges of this court, therefore, when actu-
 ated by the virulent spirit of this Anti-Catholic

CHAP. IX.


Court of King's
Bench.

—
Its powers of
inflicting in-
justice.

code, may become the instruments of grievous and heavy oppression. They may display the most flagrant partiality, through the medium of political charges to Grand Juries and to Petty Juries, of attachments and informations against Printers favourable to Catholic freedom, of facilities accorded to the one and denied to the other—and, finally, of uniform injustice throughout the wide sphere of their jurisdiction and influence.

That all these foul practices do exist, we dare not affirm—neither shall we adduce particular instances.—The pomp and bearing of Judicial office lend an outward shew of purity; and, from ancient times, it has been permitted to every Judge, however weak or pliant, to shield his infirmities or his vices by the exterior of gravity and decorum. Each may say, with the sinful Angelo,

“ My authority bears off a *credent bulk*,
“ That no particular scandal once can touch,
“ But it confounds the breather.”

It is sufficient for our purpose to shew, that, under the existing Laws, such practices are very possible—and the conduct of these Judges, during the late ridiculous prosecutions of Dr. Sheridan and Mr. Kirwan, has fully developed

Nov. 1811.
January, 1812.
King's Bench.

their feelings upon the subject of Catholic freedom. CHAP. IX.

6. That the remaining Judicial situations Other Judicial situations.
may be occupied by persons hostile, in a greater or lesser degree, to the Catholic People, we need not endeavour to demonstrate. Passing over a heap of proofs upon this subject, we shall merely instance the Judicial Offices of Vicars General of Dioceses, and their practices. In the Irish Parliamentary Debates of 1788, we find the following description of these Courts, drawn by a revered Member—whose testimony has recently been embraced with gladness in Parliament, as a timely prop to the reputation of two Irish Judges.

“ The Vicar’s court is like a Polish Diet—
“ distinguished only for injustice and party.—
“ The Judge is always one of the body—or else
“ his appointment proceeds from it. The con-
“ stitution of the court is such, that none but
“ a partial Judge has *ever been known to pre-*
“ *side there.* The progress of a suit in the
“ *Irish Ecclesiastical Courts* is attended with
“ double the expence of a suit carried on in
“ those of England: and is at best a penal
“ remnant of barbarity, that requires immediate
“ annihilation.—It is a grievous Judicature;

Mr. Grattan
Parl. Debates,
1788.

His testimony to
the Courts of
Vicars General
of Dioceses.

CHAP. IX.


Courts of Vicars
General of
Dioceses.

Described by
Mr. Grattan.

“ It is well known, that the costs of a suit in
 “ the Vicar’s court are seldom less than
 “ £1 : 6 : 8—although the sum litigated may not
 “ be more than 5s. In addition to this griev-
 “ ance, the incompetency of a witness is of no
 “ avail to set aside his evidence.—Nay, though
 “ he were the proctor or servant of the party,
 “ and his bias and corruption were evident,
 “ still his evidence is admissible: notwithstand-
 “ ing he viewed the crop in the infancy of
 “ vegetation, or the ground *at the time was*
 “ *red*, (when it was impossible with any degree
 “ of certainty to anticipate its value)—and fre-
 “ quently *guesses* at the quantum of land,
 “ produce, and value—without survey, weight,
 “ or measure. In the year 1786, I can prove
 “ from indisputable evidence, the Tithe of many
 “ farms amounted to the RACKRENT of the
 “ landholder; and I am assured, that it is a
 “ practice, to charge the unsuspecting hus-
 “ bandman for more acres than he really pos-
 “ sesses. I have a Survey, sworn to, that
 “ not only proves this, and the infamous
 “ exaction of the proctor—but plainly shews,
 “ that, in many instances, not merely the *tenth*,
 “ but the *fourth*, is extorted from the unpro-
 “ tected peasant.

CHAP. IX.

Vicars' Courts
in Ireland.

“ The Peasant, who resists this cruel vio-
 “ lation of justice, and flies for protection to a
 “ petty court, soon to his destruction dis-
 “ covers, that, which should have been his
 “ asylum, receives him as a devoted victim :
 “ that, by the collusion of the court, or the
 “ imbecility of the judge, he falls a sacrifice to
 “ his temerity ; and a Decree is obtained, which
 “ involves him and his family *in certain ruin.*”
 “ Thus a fear is excited, which operates to
 “ the advantage of the Proctor, &c.—and pre-
 “ vents the object of their plunder from seeking
 “ redress in a summary way.

“ The Vicar’s court in the Arch-diocese of
 “ Cashell appears, from incontestible evidence,
 “ to be a most iniquitous one. This Court cal-
 “ culates the number of barrels, which the acre
 “ of potatoes, wheat, or oats, might produce—
 “ either on a superficial and partial view of the
 “ farm, or the most extraordinary and partial
 “ estimate of the Proctors.

“ From the Decrees I have read, it appears,
 “ that the Parsons and Proctors claim and
 “ receive *market prices* for Tithes : whereas,
 “ in justice and equity, *field prices only* can be
 “ demanded. To insist on market prices, is a
 “ monstrous exaction. It is claiming a Tithe
 “ of labour, as well as of property ; as no

Described by
Mr. Grattan.

CHAP. IX.

Vicars' Courts
in Ireland.

“ allowances are made for digging or drawing:
“ no recompence for the labour of the pea-
“ sant—

“ In a year of scarcity and dearness, it
“ appears, that the Clergy and their Proctors
“ set forth a *plenty produce*, and thereto annex
“ a *famine price*: availing themselves of
“ famine, which is unchristian and uncharitable—
“ and making plenty itself the scourge of the
“ farmer.

Described by
Mr. Grattan.

“ That this has been done, appears evident
“ from the Decrees in the cases of *poor* people—
“ who, to a good Christian, should have been
“ objects of succour, particularly in a year of
“ scarcity—and not the devoted objects of
“ extortion.

“ The hapless people of the South are hus-
“ bandmen from necessity, not choice. They
“ have no other means of existence—and for all
“ their exertion, what is their reward? None—
“ but, on the contrary, whilst it distinguishes
“ them as the most useful members of the
“ community, it subjects them to the predatory
“ grasp of avaricious proctors, and unfeeling
“ tithe-farmers. Where can the Tenantry of
“ Ireland look for protection, if you deny
“ them assistance? *They are the pillars of*
“ *the State*—and, if not humanity, at least

“ good policy, should guide you to cherish
 “ them.”

CHAP. IX.
 Vicars' Courts. 1

This moving statement was corroborated
 by a noble Earl, since deceased; who added,
 “ I cannot forbear to mention the oppressions
 “ and distresses under which the poor in the
 “ South of Ireland labour—I reside in that
 “ part of the kingdom, and therefore cannot be
 “ ignorant of them. The people, who culti-
 “ vate the poor land in the county of Cork,
 “ are utterly unable to pay Tithe of any kind—
 “ and yet Tithe of every kind is most rigor-
 “ ously demanded from them. I have myself
 “ been cited to an Ecclesiastical court for pay-
 “ ment of an illegal demand: and which,
 “ illegal and exorbitant as it was, I should
 “ have been obliged to comply with, without
 “ ever having joined Issue—*were I a poor*
 “ *man.*”

Lord Kingsbor-
 ough, afterwards
 Earl of Kingston:
 father of the
 present Earl.

His testimony.

We have not heard of any amendment in these
 Courts, since these forcible testimonies were
 borne to their principles and practice—and we
 apprehend, that it is needless to adduce
 further proofs of the general subjection in which
 the Catholics of Ireland are held, touching the
 Administration of Justice through the medium

CHAP. IX. of persons invested with any portion of Judicial
 Judicial Offices. power. Let us next enquire, whether Justice
 is purely administered to the Catholics, by
Juries in Ireland.

SECTION III.

*Trial by Jury—how administered to the
 Catholics of Ireland.*

Boasted excel-
 lence of Trial
 by Jury.

Blackst. Com.
 vol. 3. p. 363,
 &c.

1. TRIAL by Jury has long been acknowledged, by all Jurists, to form the prominent feature of excellence in the British Constitution. Every treatise upon the Laws of these realms presents to the Catholic reader the most elaborate and exalted character of this admired Tribunal. We are told, that “ its
 “ frame and constitution are the most excel-
 “ lently contrived for the test and investigation
 “ of truth—that the scrupulous delicacy, the
 “ impartial Justice, the admirable management,
 “ by which the Law of England approves
 “ itself in this respect, challenge the reverence
 “ of mankind—that these perfections appear
 “ most remarkably, as follows—

1. “ In the avoiding of *Frauds* and secret CHAP. IX.
 “ management. Juries.

2. “ In quashing the whole Panel or Array;
 “ if the returning officer is *suspected to be other*
 “ *than indifferent*—and in repelling particular
 “ Jurors, if *probable cause* be shewn of malice
 “ or *favour to either party*.

“ And that, *in fact*, the nomination amounts Their oaste
 “ practically to an appointment of the Jury by purity and ex-
 “ the *mutual consent* of both parties. cellence.

“ We are further taught, that the Trial by
 “ Jury is the principal bulwark of our Liberties.

“ That it was so insisted upon by *Magna Magna Charta*,
 “ *Charta*—[the framers of which, be it always
 remembered, were Roman Catholics.]

“ That it is of the highest and most beneficial Blackst. Com.
 “ nature; that the more it is searched into and vol. 3. p. 363,
 “ understood, the more it is to be valued. &c.

“ That it is expeditious, cheap, convenient,
 “ *equitable*, and certain.

“ That, upon these accounts, it has ever been
 “ looked upon as the Glory of the English Law.

“ That Rome, Carthage, and Sparta, lost Montesqu. Esp.
 “ their liberties—only because they were strangers d. Loix.
 “ to this inestimable shield of Defence.

“ And, in fine, that it is the most transcendant
 “ Privilege that any subject can possibly enjoy

CHAP IX.

Juries.

Their boasted
purity and ex-
cellence.

“ or wish for, that he cannot be affected either
“ in his property, liberty or person, but by
“ the unanimous consent of Twelve of his
“ neighbours and equals—and that all depend
“ upon maintaining, in legal force, the Consti-
“ tutional Trial by Jury.”

We are perfectly willing, as far as mere *theory* can qualify us for any opinion, to subscribe to the justice of all these pompous encomiums upon Trial by Jury, when properly administered—but, how heavy must be the censure, and how severe the Injustice, if all these excellent attributes should be perverted, through partiality, into mere pretexts for palliating every enormity, under the forms of Justice !!

Grand Juries,
and Petty Ju-
ries.

JURIES are of two kinds : Grand Juries and Petty Juries.—Their general nature and functions are pretty nearly the same in Ireland as in England, and are too well known to require enumeration. We shall only advert to the features, in which they practically differ—and for that purpose shall take a view of the Constitution of Juries in Ireland,

1. “ As to the *partial principle of their*
“ *Selection.*

2. “ *The Consequent mischiefs.*”

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SECTION IV.

Juries.

*“ Of the partial principle, upon which Juries
“ are Selected.”*

I. THE power of selecting Juries is Juries selected by Sheriffs—
Sheriffs by Lord Lieutenant and Corporations.
vested by Law in the Sheriffs of the respective
Counties and Cities ;—and the Sheriffs are
nominated—in Counties, by the Lord Lieutenant
of Ireland for the time being—in Cities, by the
Corporations.

According to the Laws now in force, no No Catholic can
be Sheriff or
Sub-sheriff.
Catholic, whatever be his rank, property, or
merit, can fill the office of Sheriff, or of under
Sheriff.

The Irish Test Act, (1703) following that 2 Anne, ch. 6;
Sheriffs.
of England, has excluded Catholics from the
office of Sheriff, amongst many other civil
Offices.

A subsequent Statute (1727) has provided,
that “ no person shall be capable of acting as a
“ Sub-sheriff or Sheriff’s clerk, who shall not
“ have been a Protestant for five years im- Sub-sheriffs
“ mediately before such his acting—and that
“ every person offending therein shall be subject 1 Geo. 2. c. 20,
Sect. 4.
“ to all the disabilities and incapacities imposed
“ by Law (in those days) upon Catholics.”

CHAP. IX.

Juries.

33 Geo. 3. c.
21. Sect. 9.Re-enacted in
1793.

And finally, the Statute of 1793 has distinctly reserved the Offices of Sheriff and Sub-sheriff amongst those, from which the Catholics of Ireland were to remain still excluded.

Thus it appears, that the Offices of Sheriff and Sub-sheriff are interdicted to Catholics.

Nominated
hostilely
towards the
Catholics.

2. But truth requires, that we should add more. Under an Administration hostile to Catholics, the Sheriffs may naturally be presumed to be selected upon an Anti-Catholic principle: not fairly and impartially from amongst the Protestant gentry at large.

Practice in
England dif-
ferent—as to
the nomination
of Sheriffs, &c.

In England the Sheriff is usually nominated upon the recommendation of the Lord Lieutenant of the county, or of its representatives in Parliament: and the nomination is rarely the subject of party considerations. In Ireland the practice is otherwise.—The dexterous nomination of the Sheriff becomes an important function of the Under Secretary. If, indeed, it happens that the County members vote with the administration, (which occurs but seldom) then they may be consulted. If not, their recommendation is unavailing and unattended to—and hence it happens, such is the difficulty of meeting with Protestant gentlemen of rank who concur in the

Anti-Catholic principles of the Administration, CHAP. IX.
 that Sheriffs are sometimes nominated to opulent
 Counties, who are themselves unqualified in
 property—and destitute of any other public merit
 than that of obsequiousness to the reigning
 principles of Power.

Sheriffs, how
 nominated.

A Sheriff, thus appointed, will of course select
 a Sub-sheriff upon the principle of his own
 nomination—and, in such case it can scarcely be
 affirmed, that the Grand and Petty Juries,
 nominated by such a Sheriff or Sub-sheriff, can
 be *indifferent*, free from *favour or secret ma-*
nagement—or chosen, either actually or vir-
 tually, by *mutual consent* of the parties interested
 in the selection.

Operation upon
 Grand and Petty
 Juries.

The Sheriff is not merely a Protestant, as the
 Law requires—but is generally picked from
 amongst all the Protestants, as the most staunch
 opponent of Catholic freedom, or as the adherent
 or nominee of some powerful man of that stamp ;
 and it is certainly not too much to infer, that
 his nomination of Grand and Petty Juries must
 be influenced, in a great degree, by the same
 feeling.

These observations apply, with at least equal
 force, to Sheriffs and Sub-sheriffs, nominated
 in Cities and Towns by the Corporations.

In Corporations.

CHAP. IX.

Sheriffs and
Sub-sheriffs.

Practice in the
selection of
juries.

2. Having thus stated the natural *principle*, upon which, under the existing Anti-Catholic Code, the Juries in Ireland may be selected by a Sheriff thus nominated—we trust that it is unnecessary to state broadly what is the *practice* in this respect. The task would be most painful and invidious.—It must seem sufficient to have demonstrated abuses, which the Laws render practicable and probable, without dragging forth to view the various flagrant instances of their perpetration.—Whenever an Inquiry into this subject shall be set on foot, proofs, numerous and unanswerable, can be adduced,

Probable evil
consequences.

If indeed it be true, that the *best* Laws may be perverted to the worst purposes, what must be the consequences, where *bad* Laws hold out every facility and temptation to injustice and oppression !!

The peculiar Infirmary of human nature in this respect, its propensity to abuse power, and the danger of entrusting any one party with unqualified dominion over another—must suggest to every reflecting mind the nature and extent of the practices, which this class of Penal Laws naturally sanctions in Ireland.

But, more especially, as a celebrated Lawyer well observes, “ Where the *passions* are

“ *inflamed*—or where one of the parties is CHAP. IX.
 “ *favoured*, and the other a stranger or Juries.
 “ *obnoxious*—a Jury is liable to the strongest Sentiments of Sir
 “ objections. Sometimes, there may be the W. Blackstone.
 “ strongest bias, without any pecuniary interest.
 “ In these cases, to summon a Jury labouring
 “ under such prejudices, is to *lay a snare for* Blacks: Com: vol. 3. p. 281.
 “ *their consciences*—and, though they should &c.
 “ have virtue and vigour of mind sufficient to
 “ keep them upright, *the parties will grow*
 “ *suspicious*, and resort under various pretences
 “ *to another mode of Trial.*”

The Legislators of Ireland have recorded, by Sentiments of the Irish Legislature.
 old Statutes, their nice sensibility of the mischiefs
 flowing from the partialities of individual Ju-
 rors ; and have, indeed, evinced towards Ca-
 tholic Jurors a principle of suspicion and dis-
 trust, which they appear to have deemed wholly
 inapplicable to themselves. For they enacted,

“ That Issues to determine questions arising upon 6 Anne c. 6.
 “ any of the Popery Laws, should be tried *by known* Sect. 5.
 “ *Protestants only.* 8 Anne, c. 3 S. 50.
 “ That no Catholic should be allowed to serve upon 29 Geo. 2. c. 6.
 “ any Jury, to be impanelled to try any action *between* Sect. 12.
 “ *a Protestant and a Catholic.*
 “ Or upon any Jury impanelled to try an accusation 11 Geo. 2. c. 7.
 “ of enlisting Soldiers for foreign service.” S. 3.

We do not cite these Laws as still existing ;

CHAP. IX.

Juries.

Their constitution in Ireland.

but as proofs of an exclusive practice in the formation of Juries in Ireland, which was long warranted by positive Law—and we feel no hesitation in affirming, that it still exists in daily practice and efficacy. The Law is dead—but its hostile habits maintain a noxious existence.

Complaints of the Catholics in this respect.

If, then, the Legislators of Ireland, in those days, found reason to entertain serious apprehensions from *even the participation* of Catholics with them in exercising the functions of Jurors—how justifiable at this time must be the complaints of the Catholics, if they see that those functions are, in daily practice, exerciseable to their prejudice by the most hostile Protestants exclusively—in all cases, where Sectarian prejudices may operate upon the regular course of Justice.

Here, too, we may notice another proof of partiality in this respect, still remaining upon the Statute Book of Ireland.

Difference of qualification of property—against Catholic Jurors.

29 Geo. 2. ch. 6. sect. 1.

By a Statute, enacted in 1755, it is provided, “ That every Juror shall possess a
“ freehold estate of £10 yearly, upon any Trial in
“ the Four Courts, or before the Justices of Assize, or
“ at Nisi Prius (save strangers on trials *per medietatem*,
“ and except in Counties of Cities and Towns): but,
“ *if the Juror be a Protestant—a chattel estate or a*
“ *profit rent of £15 yearly, by lease for at least 15*
“ *years unexpired, shall be a sufficient qualification.*”

SECTION V.

CHAP IX.

JURIES.

*“Of the mischiefs, inflicted upon the Catholics,
“by the present mode of selecting Juries.”*

Mischiefs
herein.

We shall consider this subject—under the distinct heads of Grand Juries, and Petty Juries.

1. Every GRAND JURY, according to the true principles of the Constitution, ought to be composed of 23 Gentlemen of the first Rank and fortune amongst those of the County and City, who are willing to attend and be sworn.

GRAND JURIES.

Manner of selecting Grand Jurors in Ireland.

In Ireland, the practice is otherwise. By a Statute, enacted in 1708, Catholics were declared to be incapable of serving as Grand Jurors, unless a sufficient number of Protestants could not be procured to attend—and, altho' this Statute was repealed in 1793 (33 Geo. 3. ch. 21) its principle continues to be acted upon, in a great degree, throughout Ireland—and particularly in Cities and Towns. The Sheriff accordingly prepares his panel, upon a purely political scale—and the Catholics are virtually excluded—or, if

6 Anne. Ch :
6 : Sec. 5.

CHAP. IX.

GRAND JURIES

Their Powers,
in Ireland—

Levying heavy
Land-taxes.

a few are sometimes tolerated reluctantly, they are only so upon some promise, or understanding—of their voting for the Government Candidate.

Now, the powers of Grand Juries in Ireland are of enormous extent—far beyond any thing of the kind known in England. They may—not only find or reject Indictments and Presentments, at discretion; but impose heavy Land-taxes—They are authorised, by numerous Acts of Parliament, to present unlimited sums for the building of Gaols, Court-houses, Hospitals, Bridges, and other public edifices—for the making and repairing of Highways to any extent—for the payment of High Constables and Sub-constables, Collectors and Clerks—for compensating sufferers in many specified cases—and for numerous other purposes.

They are also invested with various local powers of nominating and controuling civil officers—of distributing patronage, &c.—In short, they exercise Jurisdiction in Ireland, little short of that annexed to a Parliament—especially as to the imposition and collection of Taxes.

The annual amount of Presentments, levied upon each County, varies considerably: sometimes not exceeding £6000—at other times, not

less than 60 or £70,000—This Sum is applotted upon *the Lands* in the respective Counties, and at an acreable rate, often amounting to 3s. 6d. per acre—and it is by Law exacted from the *actual occupiers alone*—that is, from the Catholic farmers, cottagers and peasants. The persons composing Grand Juries are rarely the occupiers of Land, or at least of any considerable quantity—Hence, this heavy Land-tax is imposed—by those, who contribute little or no portion of it—upon others, who are obliged to pay nearly the entire. It may be imposed, at the pleasure of persons nominated by the Sheriff—and the amount distributed, upon principles wholly foreign to the public interest.

The same observations apply to the other functions of Grand Juries in Ireland. The more extensive are their powers, the more ample their opportunities of manifesting partiality and injustice—We have already treated of the abuses and inequitable taxation, permitted by Law to Parochial Vestries: or, in other words, to the Protestant Inhabitants of each Parish. But the Frauds, Perjuries, and Mal-practices, flowing from the abuse of the great powers vested in Grand Juries, form a subject of complaint so notorious and so severe, as to call loudly for some effectual and permanent

CHAP. IX.



GRAND JURIES

Levy Land-taxes—sometimes £70,000, annually upon one County.

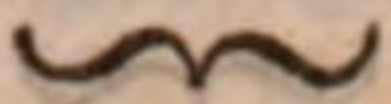
See the Assizes Charges of Justice Day, Earon Smith, &c. &c. 1810.

Grand Jury jobs.

Liable to frauds, perjuries &c.

Ante Chap. 7.

CHAP. IX.



GRAND JURIES

relief in this respect at the hands of a protecting Legislature—*Grand Jury Jobs* are, indeed, proverbial in Ireland.

2. PETTY JURIES.

1. “The Political Liberty of the subject
“has been well defined to consist in that Tran-
“quillity of mind, which arises from the opinion
“that each person entertains of his own Se-
“curity. In order to enjoy this Liberty, it is ne-
“cessary, that the Laws and Government be
“so constituted, as that no man need be afraid
“of another.”

Montes. Esq.
d. Loix. Lib. 11.
c. 6.

Safety neces-
sary to Liberty.

This opinion of Security—nay the security itself—rests principally, in these countries, upon the purity, the integrity, and the unbiassed selection, of PETTY JURIES. They constitute the great protection of every Citizen in all questions affecting his property, fame, liberty and life. An upright and firm Jury can shield Right and innocence against force, fraud and wealth—the shafts of private malice—the oppressions of power—the wrath of Majesty itself.

Value of an
upright Jury,

“It is therefore a duty, which every Man
“owes to his Country, his friends, his posterity

“ and himself, to maintain to the utmost of his
 “ power this valuable Constitution of Trial by
 “ Jury, in all its perfection and purity: to
 “ point out its defects for the purpose of
 “ amendment: and to restore it to its
 “ ancient dignity—if at all impaired, or other-
 “ wise deviated from its first institution.”

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Bl. Comm.
 v. 3. 379. &c.

 PETTY JURIES.

2. The general functions of a Petty Jury, in Civil as well as in criminal cases, are precisely the same in Ireland as in England.

Their func-
 tions.

The Jurors are selected by the Sheriff or his Sub-Sheriff. This officer may, at his discretion, cause certain freeholders to be summoned; others to be overlooked; he can insert, or omit, certain names—and arrange the order of precedence, in forming his panel. Thus he may “*pack a Jury*”—a phrase perfectly intelligible and familiar in Ireland.

*Packing a Ju-
 ry.*

Amongst numerous instances, we select the following. It occurred in open Court, at the Spring Assizes (1810) of a certain civilized County, not remote from Dublin. Pending the Trial of a prisoner, it was remarked, that the Foreman of the Jury appeared to be a determined Partisan. This excited inquiry. The Subsheriff was sent for, and inter-rogated by the sitting Judge—when it appeared,

An Instance—

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PETTY JURIES.

How to pack a
Jury !!

that he had, previously to the Assizes, received a Letter from the Attorney for one of the parties, enclosing a List of Jurors to be impannelled for that particular Trial. He produced the Letter and the List—and the names of the Foreman and of *Seven* Jurors *identically corresponded with the List*. They had not served upon the preceding Juries. The Judge directed the Attorney to be prosecuted: he was so—and *was acquitted at the succeeding Assizes!!!*

That these practices have existed, and to a considerable and alarming extent, it is impossible to deny—but it suffices for our purpose (which relates to bad Laws, and not to their instruments) to demonstrate, that they are probable, natural, and indeed unavoidable—under the existing Penal Code.

The Practice
proceeds from
the penal Code.

We have shewn, that the Sheriff and Subsheriff, nominated by an Administration hostile to Catholic freedom, may be selected upon the favourite principle of Religious exclusion. They will, of course, apply the same principle to the general selection of Jurors—and most particularly in every case, where the interests or characters of their Patrons, or of any dependant upon their Patrons, happen to be involved—nay even where a mere question of private property

or interest is to be tried between a Catholic and a Protestant. CHAP. IX.

In fact, how should it be otherwise? for, the nearest acquaintance and connections of the Sheriff and sub-Sheriff being Protestants—it is plain that a Protestant plaintiff, defendant, or prosecutor, must always possess decided advantages over the Catholics. He commands a certain channel of influence: knowledge of the names, access to the persons, returned in the Panel. It is a great chance then, that, whilst the Catholic party can recognize no friend or acquaintance upon his Jury—his Protestant opponent is favoured with the good wishes and kind protection of many.

PETTY JURIES,

Reasons for
packing Juries
in Ireland—

This is invariably the case in Corporate Cities and Towns: the Sheriff is always the nominee of the Corporation. He returns, of course, Protestant Juries: Members of the Corporation: who are generally the most Anti-Catholic, tho' not the most wealthy or reputable, part of the Protestant Inhabitants. These Juries, thus selected, form the local Tribunals, which sit in Judgment upon the lives, liberties, properties, and reputation, of the excluded and anxious Catholics!!!

Practice, in Ci-
ties and Towns

Moreover, even in cases, where the Judge and the Sheriff may happen to stand wholly in-

CHAP. IX.

PETTY JURIES.

How biassed
by the Anti-
Catholic Code.

indifferent between the parties, the Petty Juries must yet feel their minds unduly influenced against the Catholics—by the very existence of these angry Laws, which still cherish Religious jealousies in Ireland. These Laws, as we have observed, prolong a general spirit of discord and alienation between the Protestants and Catholics. The Jurors naturally bring into the Box their early prejudices and dislikes, friendships and partialities—the political bias of education—their notions of common interests with the Protestant party—All this may happen without any corrupt views, or any want of common integrity, in the Jurors. It is the necessary consequence of the exasperation, which these Penal Laws excite and diffuse for the most reprehensible purposes. *The Catholics, however, are uniformly and grievously the sufferers.*

This Statement
under-rated—

—and far short
of the actual
practice in Ire-
land.

3. We feel, that we have under-rated the real extent of Catholic complaint against the present principle of administering Justice in Ireland. Instances are innumerable, and proofs conclusive, in support of a Statement, far more aggravated.

Verdicts have been frequently pronounced—wholly contradictory to evidence—reprobated

even by the sitting Judges—and not to be ac-
counted for, otherwise than upon the marked
principle of religious prejudices.

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Petty Jurics.

Catholic prisoners are brought to trial, upon
charges affecting their lives: the evidence
failing, the Crown Lawyers abandon the
prosecution, as untenable—the Judge directs
an acquittal: and yet—the *Jury finds a verdict
of Guilty!!!*

Catholic
Prisoners.

Again, Protestant prisoners, armed yeomen or
soldiers, are prosecuted for gross outrages
against the properties and persons of Catholics—
for robbery—and murder—The evidence is clear
and connected—the Judge charges unfavour-
ably—and yet, to the amazement of unreflecting
spectators—the *Jury acquits instantly!!!*

Protestant
Prisoners.

Different treat-
ment.

In cases, where the Protestant murderer
or robber has happened to be convicted, his
Protestantism has secured his pardon.---All
the local *soi-disant* loyalists fall to work:
Memorials and Petitions are prepared and sub-
scribed: vouchers of excellent character are
easily procured: even Catholics dare not
withhold their signatures (lest they should be
stigmatized as sanguinary and merciless).—
Thus the testimony appears *unanimous*; and
the Lord Lieutenant readily pardons—per-

Murders.

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Petty Juries.

haps promotes, the convict—who, in some instances, becomes thenceforth a cherished object of favour.

Disadvantages
imposed upon
Catholic Prison-
ers.

Their witnesses.

On the other hand, where the Prisoner is a Catholic, he is generally destitute of this powerful agency and interference. His witnesses, as may be expected, are, usually, persons of his own condition and family. It is true, they may swear positively to an effectual and legal defence, wholly uncontradicted; but, *not* being Protestant (i. e. *respectable*—the epithet attached affectedly to *every thing* Protestant) they commonly fail to meet with credit. The least apparent inconsistency, or ambiguity of phrase, is triumphantly seized as an indication of falsehood—although the error may only exist in the misconception of the hearer. The prisoner, when called upon for his character, never presumes to resort to the testimony of any neighbouring farmer, or person of humble degree—*unless a Protestant*. He appeals, perhaps, to some *Grand Juror*, or other *man of note*—or to the *Parson*—under the impression, that *they alone will meet with credit*. The personage, thus appealed to, perhaps forgets the prisoner, or has barely heard his name; of course his testimony proves of more prejudice than advantage: and thus the ill-fated prisoner

loses the benefit of his best and most natural evidence, that of his honest, industrious neighbours—from the cruel injustice and hostile influence of these Penal Laws. CHAP. IX.
~~~~~  
Petty Juries.

Should he be convicted, a thousand rumours are immediately circulated to the prejudice of his general character: he is proscribed as a dangerous man, a leader of a faction: no Grand Jury interferes in his behalf: and he suffers death, publicly protesting his innocence, fortified by the testimony of his confessor's belief of his veracity—and exciting the sympathy and regrets of the people\*.

Punishment, thus procured and inflicted, is surely any thing but a salutary public example: it is precisely the reverse.

\* At the Summer Assizes of Kilkenny, 1810, one Barry was convicted of a capital offence, for which he was afterwards executed.—This man's case was truly tragical.—He was wholly innocent—was a respectable Catholic farmer in the county of Waterford; in good circumstances.—His innocence was clearly established, in the interval between his conviction and execution—yet he was hanged; publicly avowing his innocence!!!—There were some shocking circumstances, attending this case—which the Duke of Richmond's Administration may yet be invited to explain to Parliament. Tragical  
instance.



## CHAP. IX.


 Petty Juries.
 

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Catholics re-  
jected by Crown  
Solicitors.

4. Crown Solicitors, too, in cases of public prosecutions, uniformly set aside and reject Catholic Jurors. This practice, which has been revived of late years, is highly offensive and mischievous. We impute it not to the Solicitors themselves, who are generally men of sense—but to the hostile Administration by whom their instructions are issued.

Now, it is notorious, that Catholic Jurors are as willing as any others, to convict offenders, upon charges properly made out in proof. No people of any other class feel, or avow, a more sincere and natural horror of crimes in general. But the Crown Solicitor is bound *to take the contrary for granted*. He objects to every Catholic—and even to every name that *sounds Catholic to his ear*. He challenges respectable Jurors—upon hints from common thief-hunters, or interested alarmists, who affect to view every Catholic with aversion and terror.

This ungracious practice, which prevails in Dublin as well as upon the different Circuits in Ireland, tends equally to the insult of the rejected Catholic—the dismay of the prisoner—and the public distrust of Trial by Jury.

For example—let us suppose the case of an honest, industrious Catholic farmer, or trades-



man—the father of a family—the master of CHAP. IX.  
servants—depending, for his subsistence and that Petty Juries.  
of his children, upon his time, credit, and fair  
character. He is summoned specially to attend  
upon the Crown Panel. Should he neglect to  
attend, he is heavily fined—Should he appear and  
answer, the Book is tendered to him, the Juror's Catholic Jurors  
rejected by the  
Crown Solicitors  
oath proceeded upon—when suddenly, in the face  
of his neighbours and of a crowded court, he  
is contemptuously ordered to *stand by*—not by  
the prisoner, whose ignorance and confusion  
might render the error harmless and excusable—  
but by the cool mandate of the Crown Officer,  
and, in that respect, the minister of the executive  
Government of the Country.

The wounded feelings, the vexation, of the Vexation and  
injury to the  
Catholics.  
Catholic, thus rejected, may well be imagined.  
The rejection is not merely a high personal  
indignity, but also a serious injury to his per-  
sonal interests. It amounts to a public dis-  
paragement of his character as a citizen: it  
necessarily injures him in the estimation of,  
at least, all the Protestants present—and  
lends the sanction of public authority to a  
contemptuous treatment of Catholic indivi-  
duals.

The Prisoner, too, has abundant cause of  
complaint. He sees that the Jury is 'not in-



## CHAP. IX.

## Petty Juries.

Catholics re-  
jected.Complaints in  
this respect.Fatal conse-  
quences.

*"differently chosen"*: that those of his Religion are studiously excluded, merely as Catholics : and that the zeal of the King's Solicitor is astutely exercised in weeding from the panel any Catholic names, which may have crept in through the hurry or inadvertence of the King's Sub-sheriff. He may therefore attribute his consequent conviction less to the visitation of pure and equal Justice, than to the stratagems of prejudice—and he may consider himself as the victim, rather of his Creed than of his crime.

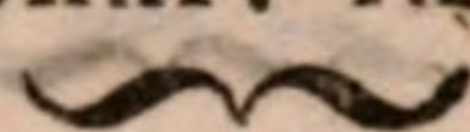
Thus, however legal or correct such convictions may be, the Catholics may complain of *foul play* ; the punishments are held to be undeserved : and, though public vengeance may be satiated by capital executions, the cause of public example (the great object of all punishments) is in no degree advanced.

Indeed there is too much reason to presume, that many convictions take place in Ireland, and many executions follow, under the mistaken influence of prejudices and party feeling, rather than from rational evidence of actual crime.

Again, the same Catholic, so rejected by the Crown Solicitor, is employed as a Juror in cases of *lesser importance*—or where the Crown finds it unnecessary to interfere—as in common lar-



cenies, assaults, traverses, Sessions Juries, &c. CHAP. IX.  
&c.

  
Petty Juries

And his attendance and services are enforced,  
under severe penalties and fines.

Thus, as has been already observed of the <sup>Treatment of Catholics.</sup> Office of Church-warden—the Catholic is care-  
fully compelled to undertake the Office, where  
it happens to be unprofitable and fatiguing—  
but is rigidly excluded, where he might protect  
the innocent, or where his duty might clash  
with the prejudices of power.

5. It is scarcely necessary to add, <sup>Juries in civil cases.</sup> that the condition of the Catholics is equally  
grievous, in cases of Civil actions, as in Criminal  
proceedings.

In fact, the Catholics, for this reason, feel the  
greatest unwillingness to appeal to the Laws for  
protection. Many, and those of great prudence  
and experience, have preferred an acquiescence  
in gross calumny and defamation of their <sup>The Catholics unwilling to appeal to the Laws.</sup> characters, and in unwarranted outrages upon  
their persons and properties, rather than seek  
redress against Protestants—at the hands of the  
Irish Courts of Justice.

The same may be said of nearly all litigated  
questions, in which Catholics happen to be



## CHAP. IX.

## Petty Juries.

involved—excepting, perhaps, those which turn upon the mere investigation of Deeds and other written documents—and are unmixed with considerations of personal character, credit, or favour.

The Catholic generally submits; or makes the best compromise he can procure.

Histor. Apology  
for the Irish  
Catholics—  
Dublin, 1807.

It has been truly observed by an accomplished writer (whose unanswerable Apology for the Irish Catholics has well sustained the literary name of Parnell, and shed fresh lustre upon the station of an Irish Protestant gentleman) that

“An immediate injury, which the Penal Statutes inflict upon the Catholics, is a great insecurity of person and property—and extreme uncertainty of redress from the Laws of their Country.

“Catholics cannot be Sheriffs or Sub-sheriffs. Juries are of course Protestant: and, upon any Trial where party feelings can interfere, a Catholic is generally judged unfairly.

Proverb in  
Ireland.

“It is grown into a proverb among the common people of Ireland, that *There is no Law for a Catholic.*”

Whilst, therefore, such a system of Laws, and such principles of administering Justice, prevail in Ireland—the Catholic cannot seriously be said to enjoy security in his person, or proper-



ty, fame, liberty, or life. Wherever the influence of the Crown may be adversely exerted, or where Religious prejudices may be otherwise pressed into action, he stands in a predicament truly perilous—wholly dependant upon the favour, rather than the Justice, of the Officers of the Crown.

6. No argument is necessary to shew the manifold evils, repugnant to every sentiment of justice, which the Catholics of Ireland suffer under this general Mal-administration of the Laws. That they are manifestly entitled, upon the broad principle of right and reason, to equal protection, equal security, with their fellow-citizens, it were superfluous to contend.—“ The “ Householders of this Country,” said the celebrated Henry Flood, “ have a better right “ to consideration and franchise than those of “ any other country, *because they pay more for “ it.* They maintain the affluence of the “ rich, the dignity of the noble, the Majesty of “ the Crown. They support your fleets and “ armies : and who shall say that they shall not “ have the means, as well as the right, to “ protect their Liberty against any aggression ? “ There is no country in the world (save Ireland)

The Catholics  
entitled to equal  
justice.

Expostulation  
of Henry Flood,  
upon the right  
of protection;



## CHAP. IX.

*Petty Juries.*

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Sentiments of  
Henry Flood.

“ in which Householders are considered as  
 “ *Rabble* : no country can be said to be free,  
 “ where they are not allowed to be efficient  
 “ Citizens.—Without them it cannot be re-  
 “ tained—as long as they have their Consti-  
 “ tutional influence, and till they become  
 “ generally corrupt, Liberty cannot be im-  
 “ paired.”

Source of all  
Injustice.

The Anti-Catholic code of Laws is the sole source of all this injustice, which we have stated. It inspires early sentiments of aversion and contempt : it nurses these vicious sentiments to maturity—holds out rewards and honours for their cultivation and exercise : and diffuses intolerance and persecution throughout every stage and department of life. How can we arraign Protestants, if they merely obey the spirit of the Laws, and conform to principles sanctioned by the State !! How shall we condemn the Sheriff and Jury—whose mal-practices flow, not from malignity or wilful injustice, but from false principles of education, prejudiced habits of thinking—and, above all, from the slanderous imputations, which the Penal Code cruelly affixes to the morals and integrity of their Catholic fellow Citizens ! !

Not in the  
Protestants—  
but in the bad  
Laws.

Cruel impu-  
tations.



It cannot be denied, that the intolerant prin-  
 ciple of this Code must produce the same  
 effect upon the members of one Religion as upon  
 those of any other—that the Protestants would  
 have equally just grounds of complaint, were  
 they debased to the present condition of the  
 Catholics—that the latter would naturally be as  
 likely to abuse excessive power as the former.  
 No doubt they would.—It cannot be otherwise.  
 It rests upon every experience of human nature.

CHAP. IX.

Protestants not  
 more likely  
 to abuse power  
 than Catholics.

Is it not, then, inconsistent with the dic-  
 tates of a wise and humane policy to persevere  
 in the persecution of any people: especially of  
 a people—who have merely resisted inno-  
 vation?

Persecution,  
 not wise or  
 humane.

Force can have no controul over the mind:  
 Conscience is the most stubborn of all our moral  
 feelings—in matters of Religion, violence can  
 operate only as the *means of destruction*.—A  
 Government always compromises its power,  
 when, proposing to triumph over honourable  
 minds, it opposes the rewards and the frowns  
 of the Law, to the promises and menaces of  
 Religion.

“ Men—who look to the rewards of a life to  
 come, are above the power of the Legislature :  
 “ They regard death with too much contempt;

Montesqu. Esp.  
 d. Loix, Lib.

24. c. 14.



## CHAP. IX.

Montesquieu's  
expostulation  
against Re-  
ligious In-  
tolerance.

“ How shall the man be restrained by Laws,  
“ who believes, that the greatest punishment  
“ the magistrate can inflict, *will end in a mo-*  
“ *ment to begin his happiness?*”

“ If Heaven,” exclaimed the persecuted Jew,”  
“ has had so great a love for you as to make you  
“ see the Truth, you have received a great  
“ favour.—But is it for children who have  
“ received the inheritance of their father,  
“ to hate those who have not? If you have  
“ this Truth, hide it not from us by the  
“ manner in which you propose it. The  
“ character of Truth is its triumph over minds  
“ and hearts—and not that imbecility which you  
“ betray, when you would force us to receive  
“ it *by pains, penalties, and tortures.* We  
“ must say, that, if you loved your Religion,  
“ you would not suffer it to be corrupted by the  
“ ignorance of Persecution: and that, if any  
“ one in after-times shall dare to assert, that in  
“ the age in which we live the people of Europe  
“ were civilized, *you will be cited to prove that*  
“ *they were Barbarians—and the idea they will*  
“ *form of you will be such, as will dishonour*  
“ *your age, and spread execration over all*  
“ *your cotemporaries.*”

These pathetic expostulations powerfully ap-  
ply to the Anti-Catholic Code of these Realms:



they combat every species of Religious In- CHAP. IX.  
tolerance, in whatever age, climate or nation :  
they accord with our fixed predilection in Intolerance  
favour of universal Religious freedom—at all reprobated.  
times so rightful—and, at this moment, so neces-  
sary to the safety, honour, and repose of this  
troubled Empire.

“ *Nemo enim fidelius dare potest*  
“ *Consilium quam is, qui id alteri*  
“ *suadet, quod ipse, si in eodem loco*  
“ *esset, facturus foret.*”



## CHAP. X.

Subjects of this  
Chapter.

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## CHAP. X.

*“ Of the Laws, which inflict upon the  
“ Catholics divers other Penalties, Pri-  
“ vations, and Disabilities, not classed  
“ under the foregoing Titles :—and  
“ generally, of the injury and humiliation,  
“ which the Catholics endure under the  
“ continual pressure of Intolerance in  
“ Ireland.”*

IN the preceding NINE Chapters, we have treated of as many distinct classes of the Penal Laws, now in force against the Catholics of Ireland.

1st  
Detached Penal  
Enactments.

The remaining part shall be comprised in the present Chapter.—It consists, partly of several detached Clauses and Enactments, dispersed immethodically amongst the Irish Statutes—partly of certain Hardships, imposed upon the Catholics generally by the very existence of this Penal Code.

2d  
General hard-  
ships of this  
Code.



This Chapter, therefore, must necessarily be CHAP. X.  
 miscellaneous:—and, being formed from a Arrangement.  
 compilation of matter not reducible to regular  
 classification, its Arrangement must be arbi-  
 trary,—We shall briefly sketch these remaining  
 inflictions, in the order following, viz.

1. PENALTIES, for neglecting to take the Subjects of this Chapter.  
 Test Oaths, prescribed to Catholics by  
 the Statutes of 1773 and 1793.
2. Penal Statutes—not already specified.
3. Penal Clauses—of questioned construction.
4. Laws—respecting Education.
5. \_\_\_\_\_ Guardianship.
6. \_\_\_\_\_ Marriage.
7. \_\_\_\_\_ the Medical Profession.
8. \_\_\_\_\_ Right of Presentation to  
 Benefices, &c.
9. Property of Catholics—how endangered and  
 burdened.
10. Commercial Catholics—how aggrieved.
11. Humiliation—inflicted by these Penal  
 Laws.
12. Hostility against Catholics—sanctioned and  
 encouraged, throughout every Depart-  
 ment.



## CHAP. X

Penalties, for  
neglecting to  
take Test  
Oaths.

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## SECTION I.

*Of the Penalties, to which Catholics are liable, who neglect to take the Test Oaths, prescribed to them by the Statutes of 1773 and 1793.*

First Oath,  
1773.

12 and 14  
Geo. 3. c. 35.

IN 1773, whilst the most barbarous provisions of the old Popery Code were yet in full vigour, the Legislature of Ireland passed an Act, entitled “ An act to enable his Majesty’s subjects, of whatever persuasion, to testify their Allegiance to him.”

Preamble of the  
Statute of 1773.

This Act recites, that “ Whereas many of his Majesty’s subjects in this kingdom are desirous to testify their loyalty and allegiance to his Majesty, and their abhorrence of certain doctrines imputed to them, and to remove jealousies, which thereby have for a length of time subsisted between them and other his Majesty’s subjects—but upon account of their Religious tenets are by the Laws now in being prevented from giving public assurances of such allegiance, and of their real principles and good-will and affection towards their fellow-subjects.—In order, therefore, to give such persons an opportunity



“ of testifying their allegiance to his Majesty, CHAP. X.  
 “ and good-will towards the present Consti-  
 “ tution of this kingdom, *and to promote peace* Statute of 1773.  
 “ and industry amongst the inhabitants thereof, 13 and 14  
 “ be it enacted, &c.” Geo. 3. ch. 35.

The Act then provides, that it shall be permitted to Catholics to go before Magistrates, and to take and subscribe a certain voluminous Oath of Allegiance and Declaration therein contained.—This Oath and Declaration in substance, import a positive disavowal, minutely and specially, of the various immoral and odious Tenets, then imputed to Catholics—such as “ breaking faith with persons of other Religions ; murdering or destroying persons on account of their Religion.”—They likewise import “ an utter renunciation of all persons claiming or pretending a right to the Crown of these Realms, in opposition to King George the III.—Also a disclaimer of the supposed doctrine, that the Pope can depose princes, &c.—And a belief, that neither the Pope nor any other foreign Prince, Prelate, State, or Potentate, hath or ought to have any temporal jurisdiction, power, superiority, or pre-eminence, directly or indirectly, within this Realm—also, a distinct obligation to be faithful, and bear true allegiance, to King

First Test Oath,  
prescribed to  
Catholics.

Appendix—  
post = 367-

Disclaiming all  
obnoxious tenets  
and immoral  
principles, &c.



## CHAP. X.

Statute of 1773.

“ George the III.—and him to defend, &c.  
 “ &c.” [in the very terms of the Oath of  
 Allegiance prescribed to all other persons within  
 these Realms.]

Experimental.

2. This Statute granted no relief to Catho-  
 lics. It appears to have been merely *experi-*  
*mental*. The experiment was, however, met  
 with frankness and cordiality by the Catholics.  
 Many thousands of them took and subscribed  
 the Oath and Declaration most willingly—and  
 no Catholic has ever refused or scrupled to do so.

It was not until the year 1777, that their  
 readiness in this respect appears to have pro-  
 duced any impression.—The war with America,  
 and other calamities, had caused a general  
 emigration of Inhabitants from Ireland: the  
 cultivation of Lands fell into neglect—and of  
 course their value and yearly rents rapidly de-  
 clined.

Declining con-  
 dition of Ireland  
 in 1777, and to  
 1783.

The cause dis-  
 covered.

Alarmed by these symptoms of hastening de-  
 cay, some large Proprietors sought the true  
 remedy; and bethought themselves of pro-  
 curing industrious Catholic Tenants, and of  
 enlarging the field of competition, by the en-  
 couragement of permanent Tenures.—This ra-  
 tional project accorded, too, with certain  
 temporary objects, then in the immediate con-  
 templation of three Noblemen of considerable  
 weight—who speculated upon a large encrease

Lord Mount-  
 joy, &c. &c.



of income, by letting Lands for the building of Houses.—They perceived, however, the difficulty of inducing Catholics to become building tenants—deterred, as they were, by the Penal Statutes, which disabled them from taking leases for longer terms than 31 years, or at rents less than two-thirds of the improved yearly value. They therefore procured a Bill (or heads of a Bill) to be introduced into the Irish Parliament, in 1777, for enabling Catholics to take leases of Lands—for *so long terms as 99 years*, subject to certain conditions.

CHAP. X.

Catholics would not build.

2 Anne, c. 6.

8 Anne, c. 3.

Projects of Relief.

First attempt—

1777.

So unprepared, however, were the Members of the then Legislature for any step towards conciliation, that they viewed this Bill with indignation and horror—and rejected it as an alarming aggression upon the Protestant Ascendancy !!!

Rejected—

3. Shortly afterwards, the American Revolution having made formidable progress, and the British Arms having sustained serious checks abroad—it was deemed expedient to adopt, without delay, some measures decisively conciliatory towards the Irish Catholics.

Further attempt.

Accordingly, in 1778, the same Legislature, which in 1777 had peremptorily refused to legalize Leases for terms of 99 years—authorized the Catholics to take Lands by Lease, Devise

1778.

Change of Sentiments.



CHAP. X. of Descent, for 999 *years*—and, moreover, repealed some severe enactments of the reign of Anne.

17 and 18  
Geo. 3. c. 49.

Sect. 3:

Relief granted  
only upon the  
condition of  
taking the Oath,  
&c.

This Statute, however, prescribes a *condition*, by way of proviso, “ That no Catholic shall  
“ take any benefit under it, unless he shall  
“ take and subscribe the Oath and Decla-  
“ ration (prescribed by the Statute of 1773)  
“ on or before the 1st of January, 1779, or  
“ some time previous to the Lease made, if he shall  
“ be in this kingdom—or within six months after  
“ any Devise or Descent shall take effect in pos-  
“ session, if at that time within this kingdom—  
“ or, if then abroad beyond the seas, or under  
“ the age of 21 years, or in prison, or of un-  
“ sound mind, or under coverture, then within  
“ six months after such disability shall have  
“ been removed.

“ The said Oath and Declaration to be taken  
“ and subscribed by such Catholic in one of the  
“ Four Courts in Dublin, or at the quarter  
“ Sessions of the Peace for the county of  
“ Dublin, or before the going Judge of Assize,  
“ *in open Court.*”

Public  
danger—1782.

4. In 1782, the dangers of Invasion having become imminent, and the British Empire



struggling, singly, against the combined forces of France, Spain, Holland, and the American States—some farther overtures towards the People of Ireland became expedient. CHAP. X.  
Statute of 1782.

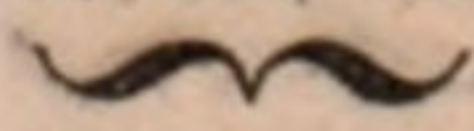
Accordingly, another Act was passed by the Irish Legislature, permitting Catholics to take or transfer, by devise, descent, purchase and otherwise (as Protestants might) any Lands, or interests in Lands, *for any term whatsoever*. It also permitted them to keep horses—to take houses and to dwell in Limerick and Galway—and to enjoy (subject to some exceptions) certain other rights, theretofore denied to them by Law. 21 and 22  
Geo. 3. c. 24.  
  
Further Relief,  
upon the same  
condition.

But this Statute, like that of 1778, is merely conditional; and extends relief only to such Catholics as shall take and subscribe the Oath and Declaration of 1773, in the manner directed by that Statute.

The same condition was prescribed by another Statute of the same year, (1782) permitting Catholics, under certain limitations, to keep schools, to instruct other Catholics—and to act as guardians to their own children, or to those of other Catholics. 21 & 22 Geo 3.  
ch. 62. Sect. 1.  
  
Sect. 5.

Also, by another Statute, (1790) permitting them to dispose of the custody and tuition of 30 Geo. 3.  
c. 20. sect. 16.  
1790.



CHAB. X. their children, under age, to any person—*except*  
 a Catholic Clergyman.

1792

Again, by another Statute, (1792) quali-  
 32 Geo. 3. c. 21. fying them to be Barristers, Solicitors, Attor-  
 nies, &c. —and withdrawing certain prohibitions  
 Further Relief, also conditional. theretofore existing, with respect to Marriages  
 between Catholics and Protestants, Apprentices  
 of Attornies, Schoolmasters' licences, &c.

33 Geo. 3.  
 ch. 21, sect. 14.

1793.

Condition  
 annexed.

The latest Statute, (that of 1793) professes  
 to remove *all* forfeitures, incapacities and  
 penalties, then affecting the Catholics of  
 Ireland—subject to the numerous exceptions  
 contained in that Statute. But it provides at  
 the same time, “ That no Catholic shall take  
 “ any benefit under it, unless he shall first have  
 “ taken and subscribed the Oath and Declara-  
 “ tion contained and set forth in that Statute,  
 “ and also the Oath appointed by the former  
 “ Statute (of 1773)—in some one of his  
 “ Majesty's Four Courts in Dublin, or at the  
 “ General Sessions of the Peace, or at an  
 “ adjournment thereof, to be holden for the  
 “ county, city, or borough, where such Catho-  
 “ lic doth inhabit or dwell; or before the going  
 “ Judge or Judges of Assize, in the county  
 “ where such Catholic doth inhabit and dwell,  
 “ in open Court.”



“ The name, title, and addition, of such CHAP. X.  
 “ qualifying Catholic, are to be entered upon Sect. 15.  
 “ the Rolls of the respective Courts: these Statute of 1793.  
 “ Rolls are to be annually deposited in the  
 “ Rolls Office in Dublin, and there preserved :  
 “ and the Master of the Rolls, or his Deputy,  
 “ upon receiving a fee of one shilling, is to  
 “ grant to each qualifying Catholic a certificate  
 “ of such qualification.”

5. Such being the enactments, by Necessary for every Catholic to take and subscribe the Oaths and Declarations of 1773 and 1793.  
 which these Oaths are prescribed in Ireland,  
 it appears to be advisable, and even neces-  
 sary, for every Catholic to take and sub-  
 scribe the Oaths and Declarations contained in  
 both Statutes (1773 and 1793) in the manner  
 appointed by the last-mentioned Statute. Thus See Post, Sect. 9.  
 only can he effectually obviate all questions  
 touching the extent of the relief to be obtained,  
 and all doubts of his having qualified within  
 the time limited by preceding Statutes.

The Catholic, who neglects to take and Consequences of neglect herein.  
 subscribe these Oaths and Declarations in due  
 manner and form, remains subject to all  
 the dreadful barbarity of the old Popery  
 Code.



## CHAP. X.

10 W. 3. c. 13.

7 Geo. 2. c. 5.

7 Will. 3.  
ch. 4 and 5.2 Geo. 1.  
ch. 10 and 19.

6 Geo. 1. ch. 6.

1 Geo. 2.  
ch. 9 and 20.2 Geo. 1.  
ch. 10 and 19.2 Anne, ch. 6.  
3 Anne, ch. 3.Consequences of  
neglect, to take  
the Qualification  
Oaths, &c. &c.

“ He is disabled from acting as a Guardian—  
 “ from practising as a Barrister, Solicitor or  
 “ Attorney—from voting at any election of a  
 “ Member of Parliament—from having or  
 “ using any arms, gunpowder, &c. in any man-  
 “ ner: from having or keeping any horse  
 “ exceeding £5. in value: from keeping  
 “ school, or procuring education for his child  
 “ at home—from sending him beyond seas  
 “ for education, or otherwise—His younger  
 “ brother may deprive him of the legal rights  
 “ of primogeniture—His eldest or only son  
 “ may reduce his fee simple estate to a mere life  
 “ estate—Any of his children, conforming to  
 “ the Established Religion, may force him to  
 “ surrender, under the name of a liberal allow-  
 “ ance, a part of his landed property.

“ He cannot dispose of his Estate by Will—  
 “ or lend money upon the security of Land—or  
 “ in any manner acquire, take, or receive,  
 “ any interest in Land—except indeed a rack-  
 “ rent leasehold for 31 years.”

In fine, he remains exposed to numberless  
 penalties, fines, and taxes—and to all the  
 varied horrors of that merciless Code, which has  
 long been branded with the reprobation of  
 mankind, as *perpetrating all the mischiefs*



*and atrocities that can possibly be perpetrated in cold blood.* CHAP. X.

No indulgence—no exception—is allowed in favour of persons, who, from bodily infirmity, are unable to take and subscribe these Oaths and Declarations publicly in open Court—or of persons, who may have lost, or been unable to obtain, Certificates of their Qualifications—or who may have happened to remain wholly ignorant of the Laws, which annex such conditions to the enjoyment of property by Catholics.

No indulgence  
towards persons  
infirm, ignorant,  
&c.

How much more reasonable in itself—more just and decorous towards estimable citizens—if these Oaths were prescribed, like the Test Oaths, to those only to whom public Offices or Places of trust should be committed—not imposed upon *every* Catholic in Ireland as the price of his exemption from cruel inflictions—and as a condition precedent to his enjoyment of even his present miserable existence in his native Land!

This condition  
unreasonable.

It is plain, then, that (notwithstanding the vaunted liberality of the Irish Legislature) the partial relief granted to the Catholics has been merely *conditional*—and that, whilst the persons and properties of the Protestants are placed beyond hazard or restraint, those of the

Relief, only  
conditional.



## CHAP. X.

Relief, only  
conditional.

Catholics are seriously endangered—in case they happen to omit taking and subscribing those voluminous Oaths and Declarations, in open Court, and with all necessary formalities.

## SECTION II.

*Of Penal Statutes—not already specified.*

THERE remain certain other Statutes, yet unrepealed, and levelled principally (tho' not professedly) against the Catholics.

Punishment,  
for not working  
upon Catholic  
holydays.

1. A Statute, enacted in 1695, has imposed a pecuniary fine of 2s. (and, in default of payment, the punishment of *whipping*)  
7 Will. 3. c. 14. “ upon every common Labourer being hired,  
“ or other servant retained, who shall refuse to  
“ work at the usual and accustomed wages,  
“ upon any day, except the days appointed by  
“ this Statute to be kept holy: namely, all  
“ Sundays in the year, and certain other days  
“ therein named.”



This enactment was manifestly calculated to CHAP. X.  
 compel the labouring Catholics to profane such  
 other Holydays, as might have been appointed  
 by their own Church.

2. By a Statute enacted in 1697, “ A  
 “ penalty of £10. is imposed upon every per- 2 Will. 3. c. 1.  
 “ son, who shall bury, or be present at the  
 “ burying of, any dead, in any suppressed Mo- Punishment,  
 “ nastery, abbey, or convent—that is not made for burying—  
 “ use of for celebrating Divine service accord- except in the  
 “ ing to the liturgy of the Protestant church Protestant  
 “ of Ireland, as by law established—or within Church-yards,  
 “ the precincts thereof.”

This prohibition may, perhaps, tend to aug-  
 ment the amount of Burial fees; but it must  
 deeply wound the feelings of the Catholics, and  
 meet with continual resistance in those senti-  
 ments of peculiarly reverential tenderness, with  
 which the Irish people are known to regard the  
 memory of their deceased friends.

3. Another Statute, enacted in 1703, 2 Anne, c. 6.  
 has imposed a fine of 10s. (and, in default of sect. 7.  
 payment, the punishment of *whipping*) upon Punishment,  
 every person “ Who shall attend or be present for Pilgrimages,  
 “ at any Pilgrimage, or meeting held at any and Meetings at  
 “ Holy Well, or reputed Holy Well.” Holy wells,



## CHAP. X.

Punishment,  
for Pilgrimages,  
and Meetings at  
Holy wells, &c.

“ And a fine of £20. (and imprisonment  
“ until payment) upon every person who shall  
“ build a Booth, or sell ale, victuals, or other  
“ commodities, at such Pilgrimage or Meet-  
“ ing.”

Catholic Crosses,  
Pictures, In-  
scriptions, &c.  
to be demolished.

“ And also requires all Magistrates to demo-  
“ lish all Crosses, Pictures, and Inscriptions,  
“ that are any where publicly set up, and are the  
“ occasions of the reverence or respect of the  
“ Catholics” [or of *Popish superstitions*, in  
the language of this Statute].

Harmless nature  
of Pilgrimages,  
&c.

In Ireland, as in all other Catholic nations,  
the people have been wont, from time imme-  
morial, to commemorate certain holy Persons, or  
Saints, on particular days: and for that purpose  
to repair to some chosen spots, which, for various  
reasons, have acquired the reputation of sanctity.  
Certain Wells have been most favoured in this  
respect, as having contributed (perhaps by the  
use of cold bathing, or by the medicinal nature  
of the waters) to the cure of infirm or diseased  
persons.—An amiable feeling of pious gratitude  
draws such persons and their friends frequently  
to the spot, which they recollect with so much  
pleasure.

Hence “ Patrons” in Ireland—or Meetings  
so called, because they are annually held at these  
salutary Wells, upon the days of the *Patron*



Saints, to whose memory these Wells are dedi-  
 cated.—Such are St. Patrick's Wells, St.  
 Bridget's Wells, St. John's Wells, &c.—Upon  
 the days sacred to the memory of these Saints,  
 Meetings or Pilgrimages take place.—These  
 consist, partly, of pious persons, who pray for  
 the cure of diseases, for blessings upon their  
 children, &c.—or who offer up their gratitude  
 for blessings received. The young and the old  
 meet together.—A little fair is sometimes held,  
 for the sale of toys and other articles of trifling  
 value—and the day is passed, by some in exer-  
 cises of public devotion, by others in harmless  
 society and amusement. Such was the origin of  
 the most ancient and celebrated Fairs in Europe—  
 of Lyons, Frankfort, Leipsic, &c. &c.

CHAP. X.

Harmless nature  
 of Pilgrimages,  
 Meetings at  
 Holy wells, &c.

Origin of great  
 Fairs.

Yet in Ireland, these harmless Meetings are  
 forbidden by Law ; and stigmatized as endan-  
 gering the Established Church, and the happy  
 Constitution of these Realms.

The latter clause of this Statute of 1703,  
 requiring Magistrates “ to demolish all  
 “ Crosses, Pictures, and Inscriptions, which  
 “ are publicly set up, and promote the piety  
 “ of the Catholics,” accords perfectly with  
 the savage and insulting spirit which breathed  
 thro’ the Legislative System of that age. But  
 what must the nations of the Continent think

Folly of these  
 prohibitions.

Demolishing  
 Crosses,  
 Pictures,  
 Inscriptions, &c.



CHAP. X. of the wisdom of our Laws, were they aware, that this puerile interdiction still remains, amongst others of a similar character, unrepealed, and in full force in Ireland!

Statute,  
13 Eliz. c. 2.  
Engl.

HIGH TREASON  
to obtain any  
writte  
printed instru-  
ment from the  
Bishop of Rome,  
or from any  
person autho-  
rized by him,  
&c.

4. To these unrepealed Statutes, we may add that which was enacted in England, in 1571, touching any correspondence with the Pope of Rome, or his agents; for, though this Statute has never been enacted in Ireland, it must seriously affect and embarrass the Irish Catholic Clergy, who may be obliged to communicate with their spiritual brethren abroad, through the medium of persons resident in England.

By this Statute, “ If any person shall use,  
“ or put in use, any Bull, Writing, or Instru-  
“ ment, written or printed, of absolution or  
“ reconciliation obtained from the Bishop of  
“ Rome, or other person claiming authority by  
“ or from him; or shall take upon him, by  
“ colour thereof, to absolve or reconcile any  
“ person, or to grant or promise to any person  
“ any such absolution or reconciliation, by any  
“ speech, preaching, teaching, writing, or any  
“ other open deed; or shall obtain from the  
“ Bishop of Rome, any manner of Bull,  
“ Writing, or Instrument, written or printed,  
“ containing any thing, matter or cause what-







CHAP. X. relieved the fleet—and, according to strict Law,  
*should have been hanged upon his return.—*

See "Betham's  
 Baronetage,"  
 Article "Cox  
 Hippeley."  
 Printed 1805.

He was, however, raised to a Baronetage; and  
 his Patent is a just satire upon the Statute.

Expostulation  
 of the venerable  
 Pius the VII.  
 with a Protes-  
 tant Nobleman,  
 —1803.

"Why is it," said his present Holiness to  
 a Protestant Earl, at Rome, in 1803, "Why  
 "is it, that your King has no Envoy at my  
 "court? Does he know, that I am a temporal  
 "Prince; that I govern territories particularly  
 "important to a Naval Power, containing va-  
 "luable sea coasts and harbours, and capable  
 "of furnishing refreshments and provisions to  
 "his seamen? Every other Prince in Europe,  
 "Lutheran, Calvinist, Greek—sends me an  
 "Envoy, and receives one from me.—But your  
 "King *alone*, who has five millions of Catholic  
 "subjects, and numerous fleets, maintains no  
 "communication with me. Is not this neglect  
 "an injury to his people, and an omission of a  
 "Monarch's duty?"

No answer could be offered to a remonstrance  
 so reasonable and pointed—except, that Queen  
 Elizabeth and Pope Paul had had a furious  
 quarrel 230 years ago—touching her legitimacy.



## SECTION III.

*Of Penal Enactments—doubtful in construction.*

BESIDES the Penal Laws, which avowedly and unquestionably aggrieve the Catholics, there exist various enactments and regulations, upon which serious doubts have been raised, of a nature highly inconvenient and distressing in many respects.—If it be a just observation, that “*misera est servitus, ubi*” “*Jus est aut vagum aut incertum,*” the Catholics are surely entitled to complain of such Laws, as *may* be construed to their disadvantage by Courts of Justice—or may even involve them in litigation—embarrassed and perplexed by opposite opinions of learned and experienced Lawyers.

Doubts raised  
upon other  
enactments.

Hardship of  
this uncertainty.

Of this nature are the doubts following :

1. Whether a Catholic may act as a *Director* of the *Bank of Ireland* ? Bank Directors,  
post : 318.

2. ————— or as Constable of a District, under the Police Acts ? Constables.

3. ————— or Assistant, or Usher, to a Protestant Schoolmaster ? Schools,



## CHAP. X.

Questions  
raised.Clergy—  
Guardians.Religious con-  
version.

Schoolmasters.

Arms.

Relapsed Ca-  
tholics.Convention  
Act.

4. ————— or Guardian of a Protestant child?—or of the child of a non-qualifying Catholic?

5. Whether a Catholic Clergyman may be the Guardian of *any* child?

6. Whether a Catholic may endeavour to reconcile a Protestant to the Catholic Religion?

7. Whether a Catholic Schoolmaster may employ a Protestant Assistant or Usher? or receive or instruct a Protestant Pupil?

8. Whether the Protestant Servant of a Catholic Master may have or use Arms?

9. Whether a Catholic, having conformed to the Protestant Religion and afterwards returned to the Catholic faith, (or, in legal parlance, a *relapsed Papist*) is entitled to partake of the relief granted to Catholics by the remedial Statutes from 1778 to this day—upon the terms of qualification prescribed to all other Catholics?

10. Whether any Assembly of Catholics may appoint a select number of discreet persons—for the sole and “*bona fide*” purpose of preparing and presenting a Petition to the Throne, or to Parliament—praying the repeal of the Penal Laws, which aggrieve them?

[This last Question is of recent origin: having been started, in 1811, by the *discreet*,



*temperate, and liberal* Administration of the CHAP. X.  
 Duke of Richmond. It has employed, and <sup>Questions raised.</sup>  
 perhaps exhausted, all the vigour of the Irish

government, during nearly the last two years.

Twelve Privy Counsellors, the Chancellor, Judges  
 of the King's Bench, Attorney and Solicitor  
 General, have vehemently pressed for a con- Convention  
 struction, unfavourable to the Right of Petition- Act.

ing.—On the other hand, several of the most  
 learned and independent Judges and Barristers of

Ireland favour the opposite construction.—The Contradictory  
 constructions.

great Lord Erskine, too, perhaps the first Autho-  
 rity in the Empire upon such a question, has  
 unequivocally condemned the construction at-  
 tempted by the Irish Government. The learned

and constitutional Sir Arthur Pigot, and Sir  
 Samuel Romilly, concur with him. Lords

Eldon and Ellenborough (though called upon  
 in Parliament) maintained an *expressive silence*,

which left <sup>no</sup> room to doubt of their dissent from  
 the Irish Court of King's Bench.

After an expenditure of £20,000 of public  
 Money, great public agitation, and irritating  
 controversy, this question remains "*adhuc sub*

"*judice*." It is in regular progress through  
 the Irish Law Courts, in the shape of Actions

at the suit of certain arrested Catholics against  
 William Downes, Esqr. (Chief Justice of the

Irish King's Bench) for <sup>acts of</sup> Arrest and false

Litigation con-  
 tinued.



## CHAP. X.

Questions  
raised.

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imprisonment, under an illegal warrant—and it may ultimately receive its decision in the House of Lords.]

The foregoing Questions may serve as a specimen of the many Doubts—still suspended over the heads of the Catholics—and which require the serious interposition of a paternal and provident Legislature—for their clear and conclusive solution.

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SECTION IV.

*Laws—respecting the Public Education of the Catholics.*

Importance of  
Public Educa-  
tion.

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1. ONE of the principal duties of a wise and good Sovereign is that of instructing and enlightening his People, and of forming them betimes to useful knowledge, and salutary habits of discipline. He cannot bestow too much pains upon the performance of this duty.

Vattel. Lib. 1.  
ch. 11.

He can feel no apprehensions from the light of knowledge, since it is always of advantage to a good Government.—He must be aware, that the most effectual way of forming good citizens, is to found useful Establishments for public Education, to give them wise directions, and to promote such mild and useful measures for that



purpose, that the citizens will not fail to embrace them. Of this opinion, too, was that incomparable Legislator and Philosopher, CHAP. X.  
 Xenophon: Lacedemon: Republ.  
 Lycurgus.—He entered earnestly into all particulars relating to the good Education of youth, being persuaded of its intimate connexion with the glory and prosperity of his country.

These truths, always recognized by profound statesmen and writers, always acted upon by great and enlightened Sovereigns, appear to have been wholly overlooked in Ireland. Importance of Public Education

The great bulk of the people, the Catholics, Neglected in Ireland.  
 are by Law abandoned to neglect, and left destitute of any provision for public Education—unless such as may be purchased at the price of Apostacy from the faith of their fathers.

In truth, the affair of useful Public Education is nearly unknown in Ireland. That, which is so called, is of scarcely any practical value.—It is, for the greater part, an affair of public mischief, or of private emolument :—*an engine either of proselytism, or of peculation.* Proselytism, and Peculation

2. That there exist in Ireland numerous splendid Establishments, bearing the plausible professions of Public Education, is sufficiently known.—From the extensive scale and pompous exterior of the Buildings, from the numerous train of officers and heavy annual charge—a Plausible professions of Public Education.



CHAP. X.  
  
 Illiberal System  
 of Education.

stranger might infer the existence of ample and liberal Public Instruction in Ireland—but, upon a nearer view, he will be quickly undeceived.

These Seminaries are closed, by Law or by usage, against the Catholics.—They are founded, generally speaking, upon strict and exclusive Protestantism—upon abhorrence of Popery—and upon the inculcation of doctrines, breathing personal imputation and indirect hostility against the Catholic Population. With the exception of a stinted pittance, ungraciously doled out from year to year to a Seminary for Catholic Clergymen at Maynooth—the Education of Protestants engrosses all the favour, and absorbs all the bounty, afforded by the Legislature to public Instruction in Ireland.

Public bounty,  
 monopolized by  
 Protestants.

The principal Institutions of this nature are,

Trinity College,  
 Dublin.

post = 274 -

1. The University of Dublin, consisting of one large College—which maintains 1 Provost, 7 Senior Fellows, 18 Junior Fellows, 72 Scholars, and about 35 Professors, Lecturers, and Assistants, in Languages, Arts and Sciences—of whom, however, many are also Fellows. The number of Students is commonly between 6 and 700.

Protestant  
 Schools.

2. Royal Free Schools.

3. Grammar Schools.



4. English Schools.

5. Diocesan Schools.

6. Military and Naval Schools.

7. Protestant Schools——called *Charter Schools*.

CHAP. X.

Protestant  
Schools.

How these Establishments are conducted, or how their funds (which, in many instances, consist of annual Parliamentary grants) are appropriated—it is not our province to enquire.

3. One of them, however, namely that of the “Protestant Charter Schools,” deserves particular notice. Charter Schools, instituted 1733.

This Establishment was founded, in 1733, upon the *charitable and truly Christian* Petition of the Primate, Chancellor, Archbishops, Bishops, Noblemen, Judges, and subscribing Clergy, &c. We give its Exordium, merely to exemplify the curious temper of that day: it runs thus, viz.

“Humbly Sheweth,

“That in many parts of Courteous and candid Petition, 1733.  
“Ireland, there are great tracts of mountainy  
“and coarse Land, of ten, twenty, or thirty  
“miles in length, and of a considerable breadth,  
“almost universally inhabited by Papists:  
“and that, in most parts of the same, and more



## CHAP. X.

Petition, of  
1733, for  
Charter Schools.

Imputing Ir-  
religion, Dis-  
loyalty, Super-  
stition, Idolatry,  
Disaffection—  
to the Catholics.

“ especially in the provinces of Leinster, Mun-  
ster and Connaught, *the Papists far exceed*  
“ *the Protestants of all sorts in number.*

“ That the generality of the Popish natives  
“ appear to have *very little sense or knowledge*  
“ *of Religion*, but what they implicitly take  
“ from their Clergy (to whose guidance in such  
“ matters they seem wholly to give themselves  
“ up) and *thereby are kept, not only in gross*  
“ *ignorance, but in great disaffection to your*  
“ sacred Majesty and Government—so that, if  
“ some effectual method be not made use of,  
“ to instruct these great numbers of people in  
“ *the principles of Religion and Loyalty,*  
“ there seems to be *very little prospect*, but  
“ that *Superstition, Idolatry, and Disaffec-*  
“ *tion to your Majesty, and to your royal*  
“ *posterity, will, from generation to genera-*  
“ *tion, be propagated amongst them.*”

If we feel disposed, at this day, to smile, in  
pity, at the fury and falsehood of those impu-  
tations—let us recollect, that in all ages, even the  
present, there are found political hypocrites,  
who cloak their selfish projects under ap-  
prehensions as loyal and sanctimonious, as those  
of these dignified Petitioners.

In consequence of this Petition, his Majesty  
King George the II. was pleased to grant his



Charter in 1733, incorporating a permanent CHAP. X.  
 body of Protestant clergy, for the management Protestant  
 of these schools.—Hence they have been termed Charter schools.  
*Charter Schools.*

Nearly 40 of these Schools are now established Illiberal system.  
 in various parts of Ireland.—They contained,  
 in 1811, about 2350 children, of both sexes.—  
 Their principle is that of *pure and unmitigated*  
*Proselytism.* In this pursuit the utmost rigour  
 is exercised—Catholic children are removed  
 from their parents, cast into these Schools, com- Cruelty towards  
 pelled to shun their kindred, and to renounce Catholic  
 the first duties of nature.—To cut off all children.  
 intercourse, and extinguish all recollection of  
 filial ties—they are transplanted to the districts Confusion of  
 most remote from the residence of their parents, kindred.  
 and there brought up in profound ignorance of  
 their names, situation, and very existence.—  
 From this ignorance, and the confusion arising  
 from it, have ensued distressing consequences ; Distressing  
 and, in some cases, even incestuous Marriages. consequences.  
 Nor is this all—for, the Catechisms placed in Catechisms  
 their hands inculcate sentiments so hostile and virulent.  
 virulent against the Catholic population, that  
 the children (if they learn any thing) learn  
 only to detest and despise their parents and rela- Parents  
 tives. Thus the mode of proselytizing the despised.



## CHAP. X.

Protestant  
Charter schools.

Offensive.

Useless.

Abhorred by  
humanity.

Reports, by the  
illustrious  
Howard, and by  
Sir J. Fitz-  
patrick.

poorer Catholics to the Protestant religion, or, as it is termed, “ instructing them *in pure religion* “ and loyalty”—is that of teaching them to become bad sons, bad brothers, and worse than barbarians—in order to become good Christians and good subjects. These Schools are most odious and offensive in a Catholic country: and, in their effects, little better than seminaries of discord, rancour, vice and irreligion.—Nor are they available, in any great degree, for their professed objects.—The children, upon leaving them, generally become ashamed of the place of their education, by reason of the ~~general~~ opprobrium attached to the name of *Charter schools*. Great numbers return to their parents, if they can discover them, and embrace their religion.—Others elope from their masters—emigrate to America—or betake themselves to evil courses.—Few adhere to the religion of the Charter school. Indeed, institutions, so abhorrent from the laws of nature and humanity, cannot be expected to flourish.—By the unerring decree of every feeling heart, they stand condemned to decay and disgrace. We shall only give the substance of Reports upon their condition, made several years ago, by the benevolent Howard, and by Sir Jerome Fitzpatrick, the Inspector General.



“ The Children,” say they, “ generally speak-  
 “ ing, are unhealthy; half starved; in rags;  
 “ *totally uneducated*; too much worked; and,  
 “ in all respects, shamefully neglected.”

CHAP. X.

Commons Jour-  
nals.

Can any picture of a School be more ab-  
 horrent from humanity?

Charter schools.

4. But the Laws of Ireland do not  
 limit the proselytizing passion (masked by  
 charity and education) to Charter schools.

For, in 1716, it was enacted, “ That the  
 “ *Parsons* and churchwardens in every parish  
 “ should, together with a Justice of the Peace,  
 “ bind any child found begging, or *any other*  
 “ child (with consent of the parent) to a  
 “ *Protestant* master, until his age of 21—or  
 “ to a *Protestant tradesman* until his age of  
 “ 24 years.”

2 Geo. I. c. 17.  
Sect. 11.

Apprentices.

“ The child may complain of ill treatment  
 “ to any Magistrate; and, if the complaint be  
 “ dismissed, *he shall be corrected.*”

Curious re-  
gulations.

“ If the complaint be allowed, and cruelty  
 “ proved, the child shall be—transferred to  
 “ *another Protestant* master, and *re-bound.*”

“ If the apprentice quits the service, without  
 “ the consent or discharge of the master—he is  
 “ to be punished as a hired servant so quit-  
 “ ting service—that is, sent to the Stocks, or to



CHAP. X. “hard labour in the House of correction,  
 “for ten days.”

Protestant

Charter schools.

“And any person (*even the parent*) receiving or entertaining the apprentice so quitting service, incurs a penalty of £40.—to be paid to the master entitled to such service.

23 Geo. 2. c. 11. By a further Statute of 1749, nearly similar regulations were adopted, respecting children to be taken up and placed in these “Charter schools.”

And, by Statutes of 1772, 1774, and 1795, they have been extended to children placed in the Foundling hospital, Dublin workhouse, and every institution of the like nature, throughout Ireland.

11 & 12 Geo. 3.  
c. 11, 15 & 30.

13 & 14 Geo. 3.  
ch. 24, and 46.

35 Geo. 3.  
c. 36.

Natural effects,

mischievous.

Thus, and by various other Laws and regulations, the Institutions,\* professing the alluring principles of charity and public education, are in Ireland exclusively Protestant—and hence it happens, that (with very few exceptions) these institutions, where they are most active, must prove most pernicious and offensive to the People at large—and only lucrative sinecures, where they have fallen into disuse and neglect. The vice consists, not in

\* In the year ending the 5th January, 1811 (being a fair average year) the Parliamentary grant *alone*, for public Schools and hospitals in Ireland, amounted to £165,527. 0. 0, sterling. [Cobbet's Parl. Debates, vol. 11—Appendix.]



the managers or directors of these institutions, CHAP. IX.  
 but in the illiberal principle of their origin and Catholic Laity,  
 system—and here is to be found the great and Poor &c.  
 insurmountable bar to every improvement of  
 Public education in Ireland, under the present  
 Code.,

5. Having glanced at the munificent No public instruction for Catholics.  
 provision for the public Instruction of Protes-  
 tants in Ireland, we are compelled to acknow-  
 ledge the condition of the Catholic population  
 [of between 4 and 5 millions] to be most de-  
 graded in this respect.

It has been already shewn, pretty much at Legal discouragements of Education.  
 large, ( Chap. I. Sect. 8 ) that the Catholics by  
 Law are disabled to found or endow Schools,  
 to provide any permanent establishment, to ex-  
 pend money upon any edifice for the purpose, to  
 grant or secure any annuity to a schoolmaster,  
 &c.—These are termed *superstitious* uses, or  
 otherwise *contrary to the “ general policy of  
 the law ”*

In 1795, indeed, the Irish legislature, desirous 35 Geo. 3 c. 2  
 to withdraw Catholic students from the cele-  
 brated universities of the Continent, founded a  
 Seminary at Maynooth in the county of Kil- Maynooth Academy—  
 dare—for the ostensible purpose of maintaining 1795.  
 Catholic students in Divinity—whose numbers ostensible purpose.



CHAP X. might be enlarged, and maintained with a liberality proportioned to the occasions of Ireland.

Maynooth  
Academy—  
1795.

The Chancellor and Chief Judges for the time being, together with 6 laymen, and 11 Catholic clergymen, were nominated Trustees of an *Academy* for educating Catholics only—with the usual visitatorial powers and regulations.

Sect. 9.

Not to admit  
any Protestants.

“No person,” however, “professing the Protestant religion, or whose father professed it, is to be received or educated there; and any teacher, instructing any Protestant there, is made liable to the same Penalties as existed previously to the Act.”

Inadequacy of  
this Academy.

This Academy is supported by an annual sum, reluctantly granted by Parliament, and not exceeding £8000. Its utmost possible establishment, upon such a contracted allowance, cannot exceed 200 Students of Divinity: which may furnish, at the most, an annual supply of about 35 clergymen for all Ireland.

Sec Ante, P. 2.

Now, estimating the number of Catholics in Ireland so low as 4,200,000—and allotting only one Clergyman to every 1400 souls, (a very inadequate proportion) it appears, that the least number of Catholic clergy, requisite for administering spiritual comfort and counsels to the Irish population, ought not to fall short



of 3000.—To expect, that this number, or *even* CHAP. X.  
*one-fourth* part of it, can be kept up by a yearly Maynooth Academy.  
 supply of *only* 35 clergymen, is quite prepos-  
 terous. This consideration alone will shew,  
 very intelligibly, the insufficiency of Maynooth Inadequate;  
 Seminary to the professed object: and how  
 justly the sum of £8000. annually voted for its  
 support (out of taxes paid, too, by the Catho-  
 lics themselves) has been termed a “*paltry*  
*pittance.*”

6. Of public establishments, for *even* No Education  
for Catholic  
Laity, &c.  
 the *nominal* Instruction of the *Catholic laity*,  
*Catholic poor*, &c.—Ireland is wholly des-  
 titute.

It is true, that a Catholic may now keep a 32 Geo. 2.  
c. 21. s. 15.  
 school, and may teach: and may even do so  
 without a licence from the Bishop: but he 1792.  
 acts at his own peril and charge—unaided by  
 the Legislature, unsanctioned by the Executive  
 power.

No *public* Institution contributes to the  
 Education, or cherishes, by rewarding, the  
 studious diligence, of any Catholic—who chooses  
 to remain steadfast to his Religion.

Until 1793, the Catholics were not admissible 33 Geo. 3.  
c. 21. s. 13.  
 to Trinity College, in Dublin—even as humble  
 students, unambitious of academical emolu-



## CHAP. X.

Trinity College  
in Dublin.

Stat. of 1793—  
33 Geo. 3. c. 21.

ment or promotion. In that year, however, it was enacted, that Catholics might take *any of the degrees usually conferred there*: and it is understood, that the Collegiate statutes, or Bye-laws, have been since somewhat modified by the board—so as to dispense Catholic students from attendance at the service and ceremonies of the established church.

Sect. 7.

Catholics can-  
not be *Members*  
of this College.

Not eligible as  
Scholars.

Apostacy  
invited.

Mischiefs of  
refusing public  
instruction, in  
Ireland.

But the same Statute rigidly re-enacts the exclusion of Catholics from any situations as *Members* of the College—and this reservation is so construed and enforced, in practice, that at this day no Catholic, of what merit or diligence soever, can attain even the humble situation of a “SCHOLAR” of this College. From delicacy towards the Provost and Fellows, we forbear at present to particularize some painful instances (of which we are in possession) where these scholarships have been indecently held out to Catholic students as baits of proselytism—thus perverting the meed of cultivated talent into a premium for religious Apostacy.

7. Every liberal and ingenuous mind must lament that obstinacy, which refuses to the Catholic laity, and to the poor of Ireland, any provision for public instruction. The People of Ireland are distinguished by an aptitude



and avidity for Learning, an enthusiastic admiration of talent and genius, beyond what is perhaps to be found in any other country —

CHAP. X.

Aptitude for  
learning, in  
Ireland.

The miserable private schools within their reach actually swarm with little Scholars—who evince an astonishing eagerness in the acquirement of knowledge—whilst the poorest Peasants cheerfully submit to every privation, in order to defray the charge of purchasing Instruction for their children. What good Prince would not feel happy in meeting such noble dispositions of his peasantry with suitable succour and culture!

Eagerness of  
the peasantry  
for instruction.

But, in Ireland, the Law seems to adopt the principle—that the knowledge of reading, writing, and arithmetic, is a dangerous weapon in the hands of any Dissenter from the established Church—and not to be entrusted to any person, who has not previously (though without inquiry or judgment) adopted the politics of the *Charter school catechisms*.

Discouraged by  
Law.

8. Many important facts, intimately connected with this subject, have been collected and admirably illustrated by a Protestant gentleman of the highest reputation for literature, genuine talent, and patriotism—in a Work

This subject—  
illustrated by  
Mr. Newenham



CHAP. X. which justly claims the public gratitude,  
 Mr. Newen-  
 ham's works,  
 respecting Ire-  
 land,  
 entitled, "*A View of the Natural, Political,*  
*and Commercial circumstances of Ireland,*  
*by Thomas Newenham, Esq.*" [4to. 1809.  
 Cadell and Davies.]

highly valuable. This and the other valuable Treatises of Mr. Newenham ought, indeed, to be profoundly studied by every man, who desires to understand the great resources of Ireland, and the best interests of the Empire.

Appendix,  
 No. 26.

316 schools,  
 21,892 scholars.

Mr. Newenham adverts to the immense number of private Catholic Schools in Ireland, all *unendowed*. He has ascertained, for instance, that in two dioceses only (Cloyne and Ross) there are 316 *Catholic schools, containing 21,892 scholars*—being an average of 69 to each school. He states that, in the petty village and neighbourhood of Kilfinane in the county of Limerick, he found 310 children in 4 Catholic schools, within 6 miles of each other.—

Cork.

That, throughout the diocese of Cork, there are two or three Catholic schools in every parish.

Again—he observes, that, notwithstanding the costly public establishments for the education of Protestants, yet the entire number of Protestant children, thus maintained, (even were



the complements full) does not exceed 15,891; CHAP. X.  
 being less, by 6000, than the number of Catholic  
 children actually instructed at the *unendowed* Catholic schools  
unendowed  
 schools in only two dioceses—Cloyne and  
 Ross.

These curious facts demonstrate, at once, the  
 ardour of the people in pursuit of Instruction,  
 and the immense numbers of the growing Ca-  
 tholic population of Ireland.

Mr. Newenham, in his Preface, presents so  
 lucid a view of this interesting subject, urged  
 with reasoning so irresistible, that we shall  
 close this Article with an extract from it: Mr. Newen-  
ham's "View  
of Ireland."

“ If in two districts,” says he, “ comprising Preface, p. 19.  
 “ about one-half of the county of Cork, there  
 “ be found 316 *unendowed* schools, in which  
 “ 21,892 children, chiefly of the lowest class  
 “ of Roman Catholics, are instructed in reading,  
 “ writing, common arithmetic—and, in several  
 “ instances, the more abstruse parts thereof, as Docility and  
love of learning,  
in the Irish  
peasantry.  
 “ navigation, &c. If, in other districts, the  
 “ unendowed schools be *equally numerous*—  
 “ if the lower Irish, in many parts of the  
 “ country, speak *two* languages, idiomatically  
 “ and essentially different—which, by the way,  
 “ is far from being the case in Wales—If there  
 “ be found much fewer evidences of simplicity  
 “ and ignorance of human nature amongst the



CHAP. X. " Irish Peasants, than amongst those of other

Mr. Newen-  
ham's " View  
of Ireland."

" countries—which cannot be controverted—

" If the former, when in strange countries,

" prosecute their business with greater intelli-

" gence and success, and extricate themselves

" from accidental difficulties with greater faci-

" lity and address than the latter : which is a

" fact—there surely is not quite sufficient ground

" for pronouncing them comparatively\* illi-

" terate and ignorant.

Catholic schools  
unendowed.

" And, if these unendowed schools, in at

" least three-fourth parts of Ireland, be, with

" very few exceptions, under the superintend-

" ence of Roman Catholic masters—is it not

" evident, either that the Roman Catholic

Catholic clergy,  
fully vindicated.

" Clergy take no pains to keep the lower

" class of their laity in a state of ignorance,

" or that their influence does not extend suf-

" ficiently far to do so—and that, consequently,

" in either case, that, which is received as fact,

" is the opposite of truth ?"

\* It is observable, that a most venerable and highly-informed Protestant Bishop, in a Charity Sermon, preached in Bristol Cathedral, in October, 1810, and since printed, has published his opinion, " That two-thirds of the labouring poor in England are wholly unable to read or to write."



## SECTION V.

*Laws—respecting Catholic Guardians of Children.*

1. THE Guardianship of children is <sup>Natural solicitude of parents,</sup> a subject, which interests the finest feelings of <sup>upon this subject.</sup> the human heart. One of the most pleasing duties of a parent consists in the care and instruction of his offspring. This engaging occupation frequently constitutes a principal comfort of his life—and how natural must be his wish, that, when the hand of death shall have withdrawn him from his children, they may be placed under the protection of those persons, in whom he has been accustomed to repose his confidence ! What agony to a dying parent, who is forced, by intolerant Laws, to contemplate the probability that the care of his infant child will be transferred to sordid or negligent strangers, bound to inspire him with early prejudices, hostile to the religion and habits of his parents and kindred !

<sup>Anxiety of dying Catholics.</sup>



## CHAP. X.

2 Anne, ch. 6.  
Sect. 4.

Disabling Ca-  
tholics from  
being guardians.

Substituting  
Protestant  
Guardians.

Children re-  
moved, &c.  
by Chancellor,

and educated  
Protestants—

at the charge of  
father.

Penalty.

2. In 1703, the Legislature of Ireland enacted, “ That no Catholic should be Guar-  
dian to, or have the custody or tuition of,  
any orphan or child, under the age of 21  
years”—and that the guardianship (whenever  
a Catholic might become entitled to it) should  
be disposed of by the Chancellor to the  
nearest Protestant relation of the child, or to  
some other Protestant—who is thereby re-  
quired to use his utmost care to educate  
and bring up such child in the Protestant  
religion.”

The Chancellor was further impowered  
(where one parent should be Protestant and the  
other Catholic) to take away the children from  
the parents, and to make orders for their  
education in the Protestant religion—to ap-  
point where, and in what manner, and by  
whom, such children should be educated:—  
and to compel the father to pay such  
charges of education as should be directed by  
the court. Any Catholic, offending against this  
act, was subjected to a penalty of £500—re-  
coverable by the blue-coat Protestant school, in  
Dublin,

21 & 22 Geo 3.  
ch. 62. Sect. 5.

In 1782, an act was passed, permitting  
Catholics (qualifying by taking the oaths, &c.)



to become guardians to their own children, or to those of other Catholics. CHAP. X.

In 1790, the Legislature passed an act, principally for the purpose of enabling Protestant Dissenters to appoint testamentary guardians: the Statute, theretofore in force, (14 and 15 Char. 2. c. 19.) having strictly limited that power to persons in communion with the Church of England. 30 Geo. 3.  
c. 29.  
Dissenters, first  
enabled to  
appoint Testa-  
mentary  
Guardians.

This Act, however, contains a clause, by which Catholics also, by  
same Act

“ it is made lawful for any Catholic, who shall  
“ not have lapsed from the Protestant religion,  
“ to dispose of the custody of his child or  
“ children, during minority, by deed or will  
“ executed in presence of two credible witnesses,  
“ (in like manner as Protestants might) to any  
“ person other than *to an Ecclesiastic of the*  
“ *Church of Rome.*”

The Statute of 1793 provides, indeed, that 33 Geo. 3.  
ch. 21.

“ Catholics shall not be liable or subject to any  
“ penalties, forfeitures, disabilities, or incapa-  
“ cities, &c. save such as the Protestants are  
“ liable to”—subject to the numerous ex- Statute of  
1793—  
inefficient.

ceptions contained in that statute. But it is a serious question, in Irish courts of Justice, whether this loose and general enactment can be effectual for repealing positive prior



CHAP. X. statutes, without specific repealing clauses:—  
 Doubts, upon the Statute of 1793. and the very existence of this question frustrates the greater part of the relief, promised by the framers of that statute.

Hence, doubts have been raised :

Whether a Catholic may be guardian of the child of a Protestant ?

Whether a Catholic clergyman may be guardian in any case ?

And similar difficulties multiply annually.

Catholic Guardians to Catholic children—rejected.

Protestant Guardians preferred.

3. Again, where a Catholic has omitted to nominate a Testamentary guardian of his child, the Chancellor is authorized, at this day, to reject from the guardianship the nearest relative of the child (if a Catholic) and prefer a Protestant stranger—under the plea of *public policy and predilection for the established religion*.

An instance.

This has been strongly exemplified ; but especially in a case, before Lord Redesdale, Chancellor—on the 18th July, 1804.

In the matter of Lyons, a minor, *coram* Redesdale Chanc. 18 July, 1804.

It there appeared, that a male infant, named Lyons, had in 1794 lost his parents—both Catholics. Lord Clare in 1795 made an order, nominating the maternal grandfather, the revered Denis O'Connor Esq. of Belinagar, to be the guardian : who, as Lord Clare well



knew, professed the Catholic religion.—Mr. O'Connor, having duly qualified, acted as guardian for several years, educating the child in the religion of his parents. In February 1804, the maternal grand-uncle, who had a claim upon the estate of this child, petitioned Lord Redesdale for the removal of Mr. O'Connor—and, upon an *ex parte* suggestion, (of which Mr. O'Connor was unapprized) he obtained a summary order for that purpose. Mr. O'Connor having been thus displaced—the child (then aged about 10 years) was immediately removed from the Catholic school to a Protestant school in England.

CHAP. X.

In the matter of  
Lyons, a minor,  
18 July 1804—  
Chancery.

An application was now made to the Chancellor by motion in court, for reinstating Mr. O'Connor in the guardianship, and setting aside the order of February 1804, as obtained by surprise, and upon erroneous suggestions.

Catholic  
Guardians re-  
jected.

The grounds, upon which this application was resisted, and successfully, were exclusively those of *public policy and favour towards the established religion*. It was insisted, by Mr. Saurin (Attorney General) and other law officers, “That the Chancellor was bound, by the situation which he held, to favour the diffusion of the religion of the State—that he had no discretion in this respect—that,

Arguments



## CHAP. X.

Argument  
against Catho-  
lic Guardians.

---

“ acting as he was, under a Protestant esta-  
 “ blishment, and conformably to the policy that  
 “ has long prevailed in Ireland, without being  
 “ fettered or controuled by any Statute to the  
 “ contrary, he could have but one idea upon  
 “ the subject. A Protestant the child should  
 “ be, for his spiritual good, for the Protestant  
 “ religion is the only right one—and a Pro-  
 “ testant he should be, for his temporal inte-  
 “ rests also, by reason of those Penal Laws and  
 “ restrictions which still continue in force  
 “ against Catholics. Every man who is friendly  
 “ to the Protestant establishment, must lean  
 “ towards the Protestant faith, *and endeavour*  
 “ *to strengthen and augment the number of*  
 “ *its adherents*—and that, for these reasons,  
 “ Mr. O'Connor ought not to be reinstated in  
 “ the guardianship of the child.”

In the matter of  
Lyons, a  
minor—18 July  
1804—Chan-  
cery.

Lord Redes-  
dale's decision.

Lord Redesdale, concurring in these and similar principles, refused to reinstate Mr. O'Connor, or to restore the child to the Catholic school: and ordered that one of the Masters should continue guardian of the child, as if he were a Protestant.

Thus it appears that, though a Catholic (taking the necessary oaths) is by law *capable* of acting as guardian, yet his appointment to that office does not necessarily follow. A



Protestant will probably be preferred, if the preference should appear serviceable to the Protestant establishment.

CHAP. X.

Principle of  
Proselytism.

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4. This principle of *favouring the diffusion of the religion of the state*, thus urged and recognized, is the naked principle of *proselytism*: and easily passes into that of *favouring the professors of such religion*.—It enters into almost every affair in which the executive or judicial departments of Ireland can exercise influence—and it is, obviously, capable of being stretched to alarming lengths, to the oppression of innocence, the encouragement of immorality, and the barefaced perversion of justice.

We shall only add, that, in these circumstances, no Catholic parent can now rely with confidence—that his infant children may not (after his death) be seized by an order of the great seal of Ireland, committed to a Protestant guardian, placed in some Protestant school, and brought up in the Protestant religion—unless he shall have taken the precaution of nominating, by his deed or will duly attested, one or more testamentary guardians, with all the formalities prescribed by the statute of 1790.

Situation of Catholic parents.

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## CHAP. X.

## SECTION VI.

*Laws—respecting the Marriages of Catholics.*

Marriages of  
Catholics, by  
Catholic Priests,  
valid.

I. THE Marriages of Catholics by Catholic Priests have never been prohibited, or restrained, in Ireland. They have been always recognized, in courts of justice, as perfectly valid : and in those cases, where the actual fact of the marriage of two Catholics is necessary to be established, proof of its solemnization by a Catholic Priest is held to be sufficient.

Punishment of a  
Priest—solemnizing marriage  
between a  
Catholic and a  
Protestant.

This subject, however, recalls our attention to the severe punishment (already noticed, Chap. 1. Sect. 1.) which is inflicted upon a Catholic priest unwarily solemnizing marriage between two Protestants, or between a Catholic and a Protestant.

9 Will. 3. c. 3.

2 Anne, ch. 6.

“ Every marriage, celebrated by a Catholic priest between two Protestants, or between a Catholic and any person who has been, or has professed him or herself to be, a Protestant at any time within 12 months before such marriage, is made null and void without any



“ process, judgment, or sentence of Law what- CHAP. X.  
 “ soever—and, nevertheless, *the Priest*, who 8 Anne, ch. 3.  
 “ celebrates such Marriage, *shall on conviction* Sect. 26.  
 “ *be deemed guilty of felony, without benefit* 12 Geo. 1. c. 3.  
 “ *of Clergy, and shall suffer death according-* 9 Geo. 2. c. 11.  
 “ *ly—for, says the Law, the celebration, not* 19 Geo. 2. c. 13.  
 “ the Marriage, constitutes his offence. 23 Geo. 2. c. 10.

“ In order to obtain evidence of the fact, any 12 Geo. 3.  
 “ two Justices of the Peace are empowered to ch. 3. Sect. 2.  
 “ summon any persons whom they *suspect* to  
 “ have been present at any Marriage, which Marriages of  
 “ they *suspect* to have been made contrary to Catholics and  
 “ this Law, as well as the parties *suspected* Protestants.  
 “ to be married:—and such *suspected* parties  
 “ and *suspected* witnesses declining to appear, Catholic Priests  
 “ or refusing to declare upon Oath their know- punished.  
 “ ledge of the facts, or refusing after declaration  
 “ of the facts to enter into recognizance to  
 “ prosecute—shall be *imprisoned for three*  
 “ *years.*”

“ And although the Statute of 1792 has 32 Geo. 3. c. 21.  
 “ legalized Marriages between Protestants and Sect. 9, 10, 11,  
 “ Catholics, if celebrated by Clergymen of the 12, &c.  
 “ Established Church—yet, when it is con-  
 “ sidered, that *marriage is a sacrament* in  
 “ the Catholic Church, and ought to be cele-  
 “ brated with the rites and ceremonies of re-  
 “ ligion, it will readily appear, that this mode



CHAP. X. “ of legalizing such Marriages cannot be viewed  
 “ by the Catholics as an indulgent, gracious,  
 “ or effectual measure.”

With the exception of these ungracious and severe Enactments, we are not aware of any material objection to the present matrimonial Code of Ireland.

Innovations  
 projected.

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2. Some insinuations and vague assertions have fallen from persons high in Office, imputing confusion and uncertainty to the Laws of Ireland in this respect—and suggesting the necessity of amendment. If these hints be introductory to any Legislative innovation, if they be designed to recommend the English marriage Act to Ireland, to compel the Irish Catholics to submit to the celebration of their marriages at Protestant Churches—(as the English Catholics are obliged, or conceive themselves obliged, to do) we must earnestly and solemnly deprecate any such attempt.

Marriages of  
 Catholics in  
 England.

It would justly excite general alarm and commotion in Ireland—and must be attended by the most pernicious consequences.

In truth, any measure of that nature is wholly unnecessary. The Marriage Code of Ireland is perfectly clear and intelligible.—Its simplicity is



such, that every man can easily know “ what is  
 “ marriage, and what is not.”

CHAP. X.

It unites the two chief qualities, of utility  
 and security : facility of solemnization : facility

Marriage Code  
 in Ireland—  
 clear and in-  
 telligible.

of subsequent proof.—In no other country of  
 equal population, perhaps, have fewer questions  
 arisen than in Ireland, touching the validity of  
 marriages, or the legitimacy of Issue : and, in  
 this respect, it must be admitted to enjoy a  
 decided advantage over England. Let us hope,  
 therefore, that this subject, at least, may remain  
 safe from the rage for proselytism, or the avidity  
 of ecclesiastical fees—and that no person,  
 looking sincerely to useful and beneficial objects,  
 will lay the hand of innovation upon the long  
 established matrimonial Code of Ireland.

#### SECTION VII.

#### *Laws—affecting Catholics in the Medical Profession.*

1. It may afford matter of surprise, <sup>Medical Catho-</sup>  
 that the Statute books of Ireland, disfigured as <sup>lics.</sup>  
 they are by disqualifications of the Catholics  
 in all other professions and departments of life—



**CHAP. X.** in the law, army, navy, commerce, revenue, &c.—  
 do not present a single clause, *expressly* inter-  
 dicting the practice of the medical profession to  
 Catholics.

No express  
interdiction.

Eng. stat.

3 Jac. I. c. 5.

English Act—

In England, so long since as the year 1606,  
 Catholics were prohibited, by statute, “*from*  
 “*practising physic, or exercising the trade*  
 “*of apothecaries.*”

Not passed in  
Ireland.

In Ireland, the Catholics are aggrieved, in  
 this particular, rather by the jealous and exclu-  
 sive spirit of the general Anti-Catholic Code,  
 than by any positive statute of express disa-  
 bility.

2. A society of physicians, in Dublin,  
 3 Will. & Mary was incorporated in 1691, by Royal Charter,  
 under the name of “The King’s and Queen’s  
 College of Physicians.” This charter pur-  
 ported to arm the society with powers of an  
 extraordinary and extensive nature—which (if  
 confirmed by Act of Parliament) would vest  
 in them a monopoly of the practice of physic,  
 as well as of medical honours. One of its pro-  
 visions directed, “That no physician, or other  
 “person, should be permitted to practise physic  
 “in the city of Dublin or its Liberties—without  
 “the licence of this society.” The charter,  
 however, has not acquired any legal validity in

College of  
Physicians in  
Dublin.

Their Charter—

not confirmed  
by Law.



this particular ; for, its confirmation has never been obtained from the Legislature, although frequently solicited.

CHAP. X.

College of  
Physicians.

The Legislature has, however, recognized the existence of this society, without adopting its Charter.

Thus, in 1761, an Act was passed, authorising the King's and Queen's College of Physicians in Ireland, to enlarge their number by admitting four learned and worthy Doctors of Physic into the fellowship of their body—to appoint inspectors of apothecaries shops—to frame a pharmacopœia or code of drugs, &c.

1 Geo. 3. c. 14.

Its powers?

In 1767, it was enacted, that no person should be appointed physician to any county infirmary, unless examined and certified by this College of physicians.

7 Geo. 3.  
ch. 8. s. 3.

In 1785 and 1791, this College was empowered to elect the members of a school of physic, to be established in Dublin—to consist of 3 professors, (and, upon a certain contingency, of 4 professors) called professors upon the foundation of Sir Patrick Dunn—and to appoint clinical lectures, to be given in Dublin.

25 Geo. 3. c. 42.

31 Geo. 3. c. 35.

This College has also been, incidentally, noticed by the legislature upon other occasions of



## CHAP. X.

College of  
Physicians.

---

lesser importance—but without any addition to its powers.

Not liberal  
towards Catho-  
lics.

3. The Medical profession has long and deservedly ranked amongst the most liberal, as well as useful, of those which belong to literature—but we are obliged, with deep regret, to state, that this honourable character of the profession has not been well sustained by the conduct of this College towards the Catholic physicians of Ireland. That unfortunate spirit of monopoly, inherent in all corporations—and that jealous exclusion of Catholics, sanctioned by the spirit of the Laws—have long enjoyed a lamentable influence in this society.

33 Geo. 3. c. 21.

Sect. 8.

By-law, re-  
specting ad-  
mission to  
Fellowships.

When the Statute of 1793 opened lay-corporations, generally, to the Catholics, and even provided expressly, “ That Catholics should be  
“ capable of being elected Professors of Me-  
“ dicine upon the foundation of Sir Patrick  
“ Dunn”—this Society thought proper, on the other hand, to frame a by-law, counteracting the statute, and rendering it necessary “ for a  
“ person to take his degree of Bachelor of  
“ Arts in the University of Dublin—as a qua-  
“ lification for a fellowship in the college of  
“ physicians.”



Now, the Catholic physicians—having been CHAP. X.  
 educated at Edinburgh, Paris, Leyden, Rheims, College of  
 and other foreign universities—were manifestly Physicians.  
 excluded by the necessary effect of this by-law.  
 Most Catholic parents are still deterred from  
 sending their children to Dublin College—  
 partly by the hazards incident to a metropolis :  
 and partly by conscientious scruples, arising  
 from an apprehension that Catholic students  
 may there become habituated to a total neglect  
 of their religious worship. Few, therefore,  
 take degrees at this college, or acquire the qua-  
 lification thus prescribed. Hence, this by-law  
 operates to the exclusion of the elder class of  
 Catholic physicians, *universally*, as they have  
 all graduated in foreign universities—and of the  
 younger class, *generally* : as, in all probability,  
 very few of them (if any) will have graduated  
 in Dublin college.

According to this by-law, were a physician of  
 the first skill and renown, a Boerhave, a Syden-  
 ham, Meade, Monroe, Farquhar, or a Purcell,  
 to solicit admission into this college of physi-  
 cians—he must be rejected, unless backed by  
 the degree of Bachelor of Arts, from Dublin  
 college.

The honours, as well as the emoluments, at  
 the disposal of this college of physicians, are



CHAP. X. thus rendered nearly inaccessible to all Catholics—wholly so to those of the present generation.

College of  
Physicians.

There are other by-laws of this College—which, with certain practices of exacting large sums of money from young physicians, under pretence of licensing them to practise in Dublin, afford further matter of just complaint to Catholics against this college of physicians—but we reserve the particulars for another occasion.

Catholics excluded from all  
Medical appointments.

4. In other respects, the Medical Catholics are, in the exercise of their profession, injuriously affected by the jealous spirit of the Anti-Catholic Code. Its indirect, but certain, operation pursues them incessantly, throughout every medical department.

For, although not disqualified by any *express* statute, yet the Catholic physicians, surgeons, apothecaries—not inferior in learning, skill, experience or character, to those of any other persuasion—are practically excluded from medical honours and public situations—and, especially from medical appointments of emolument or credit, within the influence of the crown, or of the numerous departments connected with the state.



We do not read the name of any Catholic amongst the physicians, surgeons, druggists, or apothecaries, attached to the military or naval departments. The Offices of physicians general, surgeons general, directors and inspectors of military hospitals, and their assistants—physicians and surgeons to county infirmaries—members of the board of health (comprising 5 physicians)—the six professors, called, “the Faculty of Physic”—governor, deputy governor, and 13 directors of Apothecaries’ hall—professors of botany, agriculture, mineralogy, chymistry, veterinary art, &c. in the employment of the Dublin Society—state physicians, state surgeons, state apothecaries—all the medical situations connected with the Military Infirmary in the Phoenix Park, with the Royal Hospital at Kilmainham (the Chelsea college of Ireland)—the Foundling Hospital—Hibernian Society for educating the children of soldiers—Marine Society for educating the children of sailors—Orphan schools—Hospital for Incurables—Stevens’s Hospital—Mercer’s Hospital—Lying-in Hospital—Dean Swift’s celebrated Hospital—Magdalen Asylum—all the other hospitals—the prisons, &c. &c. &c.—these offices are carefully filled *by Protestants*. The Catholics, qualified for those medical situations, consider-

CHAP. X.

Catholic  
Physicians,  
Surgeons,  
Apothecaries—  
excluded from  
all Medical ap-  
pointments.



## CHAP. X.

Catholic  
Physicians,  
Surgeons,  
Apothecaries—  
excluded from  
all Medical  
appointments.

---

ably outnumber the Protestants—they may, in candour, be presumed to possess equal professional recommendations—yet they are so entirely overlooked, that a stranger (limiting his view to the official persons, actually possessed of the lucrative medical departments) might almost imagine, “that there existed no Catholic physician, surgeon, or apothecary, in Ireland.” They are so studiously *kept out of sight*—that, even when aided by very superior merit and popular favour—they can with difficulty attain that notoriety and reputation, which conduce so much to success in this profession.

Necessary to  
repeal the *entire*  
*Anti-Catholic*  
Code of Laws.

5. This state of things flows from the very existence of the Anti-Catholic Code, and must endure with its continuance. It is preserved and cherished by a religious jealousy, which can only die, when it shall have no food left for nourishment. The repeal of the code can, alone, chase away this jealousy, expel its poison, and terminate its mischiefs. It must dissipate *all confederacies* against genius, learning, and modest merit.

At present, the very numerous and valuable class of Irish Catholics, who pursue the medical profession through its various branches, are undoubtedly entitled to complain of the personal



depression and injury, which they sustain in this unworthy system of exclusion. CHAP. X.

But further—can it be doubted (as we have asked in a preceding article) “that it must  
 “aggrieve the Catholic community at large?  
 “that it intercepts the fair rewards of literary  
 “diligence, and the earnings of cultivated  
 “talent?—that it circumscribes the opportuni-  
 “ties of providing, honourably and comfortably,  
 “for the children of Catholic families, abridges  
 “the means of subsistence, obstructs the paths  
 “of industry, and the hopes of useful occu-  
 “pation?”

Ante, ch. 4  
 sect. 4.  
 Mischiefs of  
 these exclusions.

#### SECTION VIII.

*Laws—disabling the Catholics from exercising the right of presentation to Benefices.*

1. AMONGST the many disabilities and incapacities, which the memorable reign of Anne inflicted upon the Catholics of Ireland, was that, which regarded these rights of presentation. Advowsons interdicted.



## CHAP. X.

Nature of these  
rights.

Persons, possessed of manors, lands, &c. or becoming entitled to such possession by devise, descent, or grant—thereby, of course, acquire a property in all rights and privileges annexed to such manors and lands. One of these rights consists, frequently, in the presentation of an incumbent, duly qualified, to the benefice or living. When it is *appendant* to the manor or lands, it passes by the same deed of conveyance: when it has been severed, or become an advowson *in gross*, it passes by ordinary grant.

Annexed to  
Landed Estates.

Black. Comm.  
vol. 1. 389.

This right of presentation is not an ecclesiastical right: it is a mere *temporal* right, in *private* property: and is so classed by all lawyers. One of the great encomiums upon the laws of Edward the First (stiled the English Justinian) is founded upon “the effectual provisions he made for the recovery of these rights of presentation or advowsons, as *temporal rights*.”

ib. vol. 4. 426.

Purely *temporal*  
rights.

This property forms a common subject of mortgages, marriage-settlements, wills, &c.—and is susceptible of every act of dominion, exercisable over temporal hereditaments.

2 Anne, ch. 6.  
Sect. 25.

2. The Legislature of Anne, however, enacted in 1704, “That, whenever any



“ Catholic should claim, possess or enjoy, any CHAP. X.  
 “ advowson or right of patronage or presenta-  
 “ tion to any ecclesiastical benefice (or where Statute, dis-  
 “ any Protestant should claim, possess or enjoy, abling Catho-  
 “ any such right in trust for a Catholic) the lics from pre-  
 “ same should be thereby *ipso facto* vested in senting, &c.  
 “ the crown, according to such estate as such 2 Anne, ch. 6.  
 “ Catholic might have therein—until such s. 25.  
 “ Catholic or his heir should abjure his 1704—  
 “ religion.”

The Statute of 1793, which professes, in a Modified, very qualified manner, to remove all penalties, disabilities, forfeitures and incapacities affecting 179 the Catholics, has carefully provided.

“ That nothing, therein contained, shall 33 Geo. 3.  
 “ enable any Catholic to exercise any right of ch. 21.  
 “ presentation to any ecclesiastical benefice sect. 10.  
 “ whatsoever.”

This Clause omits to re-enact so much of Protestant  
 the incapacity (imposed by the above-mentioned Trustees for  
 statute of 2 Anne) as attached upon Protestants, Catholics.  
 claiming to exercise this right *as trustees for* Qu. if disabled?  
*Catholics*—and, possibly, a question may here-  
 after arise upon the effect of this omission.

3. There appears no solid reason for This inter-  
 thus interdicting Catholics from the exercise of diction un-  
reasonable.



## CHAP. X.

This interdiction—  
unreasonable.

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Public sales of  
these rights.

Advertised.

Interdiction.  
superfluous, as  
a guarantee.

Coke Litt. 391,  
note, sect. 4.

a temporal right, enjoyed by the members of all other religious persuasions, Unitarians, Quakers, Jews, &c\*. It has ever been regarded as a branch of private property. We see it treated in daily practice (by the Protestant patrons, in England and Ireland, and even by Protestant prelates) as a mere *marketable commodity*—advertised publicly for sale—auctioned—sold—like any other vendible article—without any squeamish reserve, or complaint of irreverence or indecorum.

Nothing is more frequent, than the appearance of such advertisements as,

“ To be sold by auction”—or “ wanted to purchase—the next presentation to a living, of the value of £800. yearly, situate in a pleasant country, &c. &c.

It has been demonstrated, by a learned writer, that this interdiction, at least in England, is wholly superfluous, as a guarantee for the orthodoxy of the clergyman to be presented.—For,

“ No person can be presented to a living, who has not been ordained according to the rites of the established Church.—Previously to

\* The Laws of Catholic France, down to the time of the late Revolution, secured the free exercise of this right to all dissenting patrons—to Lutherans, Calvinists, Huguenots, &c.



" his ordination, he is examined, on his faith CHAP. X.  
 " and morals, by the bishop : he takes the oath  
 " of allegiance and supremacy, and subscribes  
 " the 39 articles : and previously to his admis- This Inter-  
diction super-  
fluous, as a  
Guarantee of  
orthodoxy.  
 " sion, he subscribes the three articles respecting  
 " the supremacy, the common prayer, and the  
 " 39 articles : and he makes the declaration of  
 " conformity. By the act of uniformity, he is Requisites for  
institution to a  
benefice.  
 " bound to use the common prayer, and other  
 " rites and ceremonies of the established  
 " Church."

In Ireland, indeed, it is not necessary, either Brown's Eccle-  
Law, p. 48.  
Edit. Dublin  
1803.  
 at ordination, institution, or taking degrees in  
 Dublin College, to subscribe the 39 articles, or  
 any of them—about which subscription there  
 has been so much controversy amongst the clergy Requisites in  
Ireland.  
 in Ireland. It is required, however, from every  
 preacher, and particularly from the heads of the  
 college : and the signature to the first canon is  
 taken as including approbation of them. The  
 other formalities are necessary, in Ireland as  
 well as in England : and surely they are suf-  
 ficient.

4. " Aliens" are, in this respect, " Aliens" more  
privileged than  
Catholics.  
 placed in a less degraded and disabled condition  
 than that of the native Catholics. For, altho'  
 aliens are disqualified, by ancient Law, " from



CHAP. X. “ purchasing or presenting to benefices,”—yet  
 7 Rich. 2. c. 12. their naturalization in Ireland is so facilitated  
 2 Nels. 1290. by numerous statutes (as we have already shewn)  
 & *Aliens.* that the disability of alienage is easily to be  
 surmounted; and thus, an Alien Jew, or  
 Ante, p. 106, Mahometan, becomes enabled to exercise this  
 &c.—Chap. 3. and every other right, without any restraint  
 whatsoever.

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#### SECTION IX.

#### *Laws—dangerous and burdensome to the Property of Catholics.*

Considerations,  
in the choice of  
a Country.

1. WHEN a man of reflection finds himself at liberty to choose his place of residence—to exchange his native country for another—or to return from a foreign land to his own—he is naturally guided by the result of such inquiries as the following, viz.

Questions.

Are the Laws of that country grateful to the people?

Are the enjoyment of property, and the rights of conscience, protected?



Are social intercourse, and private feelings, free and unmolested? CHAP. X.

With deep regret we must acknowledge, that the aspect of Ireland, at present, offers no inviting answer to any one of these inquiries.—

Discourage-  
ments against  
settling in  
Ireland, under  
the Anti-Ca-  
tholic Laws.

The intolerance of the laws, the consequent disunion of the inhabitants—the menaces of force—military exhibitions—apprehended dangers, foreign and domestic—the distracted state of society (if “society” it can be termed)—the painful scenes which daily afflict every humane and generous mind—have shaken the foundations of peace, impaired the confidences of society, and poisoned the springs of cordial intercourse in private life. Of these effects the proofs are but too manifest, and annually multiplying—to the heavy injury and discredit of the country. Thousands of estimable families, ‘possessing good fortunes and liberal feelings, have become voluntary exiles from Ireland. Protestants, as well as Catholics, have emigrated in disgust and sorrow: the former, heart-sick of witnessing the oppressions practised upon their Catholic fellow-countrymen, and disdaining the ignoble partnership in a vexatious ascendancy: the latter, naturally flying from a condition of galling humiliation, insult, and injury. The incomes, example, presence,

Consequent  
mischiefs.

Emigration of  
estimable fa-  
milies—from  
Ireland.

Protestants and  
Catholics.



CHAP. X. and counsels, of all these persons—are, of course, lost to their country—perhaps irrecoverably.

Perils to  
property in  
Ireland.

Persons de-  
terred from  
settling.

Loss of Capital,

through the  
Penal Laws.

Instances.

The same misfortunes have prevented the return of many Irish families, who have acquired large fortunes upon the Continent, in the Indies, or in the Colonies. Their valuable capital, experience, skill, industrious habits, enlarged views—what a treasure of improvement would they not yield, to the native land of their possessors! For years past, we have had opportunities of learning some interesting particulars of this nature: and we can affirm, without exaggeration, that, *during the last 20 years*, capital to the amount of not less than FOUR MILLIONS sterling, with all its attendant benefits, would have been transferred to Ireland, by Irish families residing upon the Continent and in the Colonies—if *the Penal Laws against Catholics had not disgusted and deterred the proprietors*.

Some had actually reached London, on their return to Ireland, for the purpose of purchasing estates, building dwellinghouses, and settling in the land of their fathers—but, upon becoming apprized of the prevalent intolerance of its laws, system of government, and state of society, they have either stopped short in England,



or returned, with breaking hearts, to resume CHAP. X.  
 their accustomed habits, and breathe their last  
 complaints—in foreign climes.

Perils to  
 property in  
 Ireland.

Every man, interested in the welfare of Ire-  
 land, must feel, that these facts suggest reflec-  
 tions truly distressing.

2. The inquiries, which we have  
 supposed, shall employ the remaining Sections of  
 this Chapter.—And, First—that which regards  
 the *secure enjoyment of private property*.

That the Anti-Catholic system, in its tendency, Hazards, to  
 must necessarily involve property of *every kind*, Protestants, as  
 well as to  
 Protestant as well as Catholic, in continual and Catholics.  
 serious hazard, will be generally admitted.—  
 In fact, no man in Ireland, of whatever class or  
 persuasion, can be said to enjoy that reasonable  
 security in this respect, which is a principal ob-  
 ject of civil society.

Our purpose, however, is merely to demon- Peculiar dangers  
 strate in what manner this system operates, so as and burdens,  
 affecting Catho-  
 peculiarly to endanger and burden the property lic property.  
 of Catholics in Ireland. This may be done,  
 by simply collecting together, under one view,  
 some of the hardships unfolded in the preceding  
 part of this “Statement.”



## CHAP. X.

Ante, chap. 2.  
p. 81, &c.

Insecurity, thro'  
exclusion from  
Parliament.

Unequal  
taxation, confis-  
cation, &c. &c.

1. Catholic property cannot be secure, whilst it is liable to be burdened by partial and unequal imposts—under the authority of a legislature, from which Catholics are, both actually and virtually, excluded. They may be (as formerly) subjected to double taxes, to laws for incumbering or lessening their property:—nay, they are, at present, obliged to pay a greater proportion of public taxes, whilst they receive less in return, than their fellow-subjects.

Ante, chap. 3.

P. 95.

Tolls and  
exactions—

Corporate cities  
and towns.

2. Catholics, in corporate Cities and towns, are burdened by various tolls, petty charges, and vexatious exactions—from which Protestants are exempted.

Ante, chap. 7.  
p. 150—166.

Parish rates.

3. They are subject to a heavy and frequent land tax, called “ Vestry Cess”—applotted and exacted in a manner highly objectionable. No other class of the people is excluded from parish vestries—or subject to taxes, over which they can exercise no controul.

“ County  
Cesses.”

Ante, chap. 9.  
p. 221.

4. They are liable to other annual charges upon land, termed “ County Cesses”—not less than half a million sterling—levied by



order of Grand juries, from which the Catholics are generally excluded. CHAP. X.

5. They consider themselves exposed, in courts of Law, to serious hazards flowing from the present mode of nominating Juries— and from the principles, upon which justice is administered—What Title to property can be secure, if liable to be assailed by a packed jury, or a biassed court?

Administration of Justice.

Ante, ch. 9.  
p. 193—239.

6. The perils of omission to take and subscribe the Oaths and declarations of 1773 and 1793, have been already pointed out. This hardship cannot be too strongly dwelt upon. The Catholic, guilty of such omission, not merely risks the total loss of his landed property, but is immersed in tormenting litigation.

Ante, p. 242,  
ch. 10. s. 1.

Dangers, of omitting to take the Catholic Oaths.

His Lands and tenements, and all collateral securities made or entered into for covering or protecting them, become discoverable: and may be sued for and recovered from him by any

Protestant discoverer. “ The Discoverer, “ vested with this property, is enabled to find

80 Bills of Discovery.

“ it out by every mode of inquisition, and to

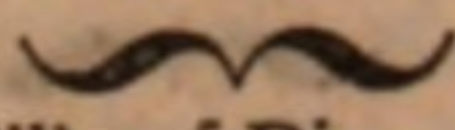
8 Anne, c. 3,  
sect. 27 & 30.

“ sue for it with every kind of privilege.—

“ Not only are the courts of law open to him:



## CHAP. X.

  
Bills of Dis-  
covery—for  
confiscating the  
property of  
Catholics.

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“ but he may enter ( and this is the usual method )  
 “ into either of the courts of equity. He may  
 “ file his Bills against those, whom he suspects  
 “ to be possessed of this forbidden property,  
 “ against those whom he suspects to be their  
 “ trustees, and against those whom he suspects  
 “ to be privy to such ownership—and oblige  
 “ them under the guilt and penalties of perjury  
 “ to discover, upon oath, the exact nature, and  
 “ just value of their estates and trusts, in all  
 “ particulars necessary to effect their forfeiture.  
 “ In such suits, the informer is not liable to the  
 “ delays which the ordinary procedure of those  
 “ courts throws into the way of the most equita-  
 “ ble claimant : nor has the Catholic the  
 “ indulgence allowed to the most fraudulent  
 “ defendant—that of plea, or demurrer.—He is  
 “ obliged to *answer* the whole directly upon  
 “ his oath : and the old rule of “ extending  
 “ benefit and restraining penalty,” is by this  
 “ law struck out of the ancient jurisprudence—  
 “ and the contrary rule is established, direct-  
 “ ing that, upon all doubts, these Penal Laws  
 “ shall be construed in the largest and most  
 “ liberal sense *against* the Catholic defendant.

Severity, in this  
respect.

Thus, the enjoyment of property by a Catho-  
 lic in Ireland, qualified and burdened as it is in  
 other respects, is made to depend upon the



contingency of his having taken and subscribed those oaths and declarations. But, even though he has complied with this condition, though he has not been prevented from doing so by ignorance, inadvertence, or bodily infirmity, yet this is not enough—he must, moreover, preserve the certificate of his qualification as carefully as any deed of conveyance. It is a necessary muniment of his title. This condition, therefore, must weaken the *security of his property*—by superadding novel stipulations to his rights, and the incumbrance of fresh pretexts for question and litigation.

CHAP. X.

Condition, of taking the Oaths.

Certificate, to be preserved.

7. Another serious hazard, affecting the properties as well as the persons of all Catholics, must flow from the doctrine long prevalent in Ireland, and even recognized some years since in the Irish court of King's Bench, (nor yet disavowed) namely, that, in the construction of questions affecting Catholics, “the Penal Laws against them are to be deemed remedial: and to be construed as such, with latitude for the protection of the Protestant Church.”

Penal Laws—  
construed with  
latitude against  
the Catholics.

Such doctrine, if pushed to its utmost length, must place Catholic property in imminent danger—and, in its spirit, almost amounts to a

Dangers, resulting from this Doctrine.



CHAP. X. formal re-enactment of all the severest Statutes  
 ~~~~~  
 Penal Laws, construed with
 latitude—
 against the
 Catholics.

against Catholics in Ireland.—Yet what security
 has the Catholic against this doctrine, in its
 most wasting latitude?

These hazards and burdens, concurring with
 the general mischiefs of the Anti-Catholic code,
 and the public hazards arising from the perverse
 spirit of the Laws—render it impossible to
 affirm, that the Catholics of Ireland enjoy
security of property—that benefit of civil
 society, never to be neglected in a well ordered
 state.

SECTION X.

*Laws—which aggrieve the Catholics of Ire-
 land, in Trade and Commerce.*

Commerce a
 public benefit,
 belonging to all
 classes.

1. THE Commerce of a nation is a
 common benefit, to which all classes of the
 inhabitants are equally entitled. It furnishes
 them with the means of procuring articles, which
 all may require. It causes a circulation of
 money, creates industry, animates labour, and,

by affording subsistence to great numbers, CHAP. X.
 contributes to render a country flourishing and
 populous.

Commerce, however, cannot long prosper, or
 even subsist, without perfect security of property, Montesq. Esp.
d. Loix, Lib. 20.
 and the enjoyment of civil liberty. The enter- c. 4.
 prizes of Merchants are necessarily connected
 with considerations of this nature. For, the Liberty, and
security of
property—
necessary to
commerce.
 opinion of greater security, in free countries,
 inclines men to undertake every thing, and in-
 spires them with the confidence necessary for the
 boldest speculations. They promise themselves
 brilliant advantages from the smiles of fortune,
 and cheerfully expose whatever they have ac-
 quired, in order to acquire more: being certain,
 that in a free country, they run no other risk.—

“ *Eo impendi laborem ac periculum, unde Liv. Hist.*
 “ *emolumentum speretur. Nihil non aggres-*
 “ *suros homines, si magna, conatis magna,*
 “ *præmia proponantur.*

2. How far the Trading and manu-
 facturing interests of Ireland have been generally
 impaired—her credit and capital diminished—
 her merchants, of all descriptions, depressed,
 by the perilous posture of public affairs, and
 the unsettled state of property—resulting from

CHAP. X. the intolerance of the Laws—we need not at present inquire.

Hardships, inflicted upon Catholic Merchants and Traders.

But we cannot overlook the peculiar hardships inflicted, by the jealous spirit of the Penal Laws, upon the Catholic merchants and traders of Ireland.

Monopoly—to their prejudice.

Commerce implies a continual struggle for gain: in which struggle he is most likely to succeed, who possesses the greatest capital, credit, influence, skill and intelligence. If the law invests any one class of persons with a monopoly of these advantages, it so far augments their means of acquiring wealth—and at the expence of the excluded class. For monopoly of every kind, though beneficial to the individual monopolist, is invariably prejudicial to the community at large—a truth, undeniable in the affairs of commerce.

We shall shew, that in Ireland this monopoly is enjoyed, in a great degree, by the Protestant merchants and traders—that the laws favour them with advantages of superior influence, information and credit—which are wholly beyond the reach of the Catholics—and that the Catholics, consequently, labour under serious comparative injury and depression.

1. The Influence and patronage, attached to seats in the legislature, are monopolized by Protestants. The connections and intimacies of the members are Protestant. Hence, opportunities of favour, support, information, influence in effecting local and personal objects. It is not difficult to comprehend the advantages to be derived *in Ireland* by a merchant, connected with a member of Parliament, who supports the existing administration, and perhaps occupies some financial office. Early intelligence, official hints, parliamentary interference in aiding or counteracting petitions for mercantile purposes—all these are capable of being turned to valuable account, by a shrewd and dexterous speculator. If a new tax is about to be imposed, or a drawback to be allowed—if licences for trade are to be issued, and certain merchandizes to be selected for import or export—if a particular branch of industry (as, for example, distillation from corn) is to be checked or permitted—how profitable and precious may not an *early private* intimation of the intended measure prove to a merchant or speculator? It may raise him to affluence—upon the ruin of his less favoured and less informed neighbour! Instances of this nature must readily occur to every observer.

CHAP. X.

Exclusion of Catholics from Parliament—highly injurious to Catholic Merchants and Traders.

Instances.

CHAP. X.

Ante, ch. 2. s. 3.
p. 77—80.

Parliamentary
influence mono-
polized—to the
prejudice of
Catholic Mer-
chants and
Traders.

In a preceding Chapter, we briefly touched upon the valuable services, which a member of Parliament can render to his personal connexions and private friends——“ Advantages in trade——“ indemnity from burdens——preferences in local “ competitions.” By such an alliance, it is notorious, that a merchant or trader may *manage* his business at the custom-house, the treasury, and the privy council——successfully enforce his claims——soften the rigour of official regulations——explain away suspicious circumstances——and procure accommodations in the payment of duties, the freighting of ships, loading and unloading of goods, &c.—to an extent sufficient to bear down all competition. From all participation of these advantages, the Catholics remain wholly excluded.

Protestant Cor-
porations——
injurious to Ca-
tholic Mer-
chants and
Traders;

Ante, ch. 3.
p. 98—102.

2. Commerce and trade must necessarily be exercised in Cities and towns, These are placed, by law, under the dominion of Protestant corporations——composed of persons, filling the offices of Mayors, Aldermen, Sheriffs, Burgesses, Common Council men, &c. &c.—Of these persons we have already treated at large.

The Catholics, however wealthy, industrious, skilful, intelligent and respectable, are rigidly

excluded from all these offices. Hence, the CHAP. X.
 Protestant merchants and traders possess decided Corporations—
injurious to fair
Trade.
 local advantages over the Catholics—which
 frequently serve as substitutes for capital
 skill and industry : bestowing factitious credit,
 personal respect, and undue priority of in-
 formation. The number of Protestants, thus
 favoured, has been shewn to amount to nearly Ante, ch. 2.
P. 95, &c.
 4000—in the different Cities and towns of
 Ireland. How severely must Trade be op-
 pressed, and its freedom coerced, in a country,
 where those persons monopolize all power,
 influence, and public recommendation—enjoying
 (at the expence of the community) unquestioned
 authority, exemption from tolls, preference in
 the markets, and peculiar favour in all beneficial
 contracts, within the influence or disposal of the
 Crown !

Whilst, on the other hand, the Catholic mer- Catholic Mer-
chants, Artisans,
&c. aggrieved.
 chant, tradesman, artisan, &c. is involved in a
 continual, but ineffectual, struggle against, not
 only the general severity of the Anti-Catholic
 system, but also the peculiar hardships and vex-
 ations attached to his lot, in his particular
 town. He sinks under the pressure of these
 accumulated burdens. He is debased by the
 galling ascendancy of privileged neighbours :
 depressed by partial imposts : undue preferences

CHAP. X.

*Corporations
oppressive.*

bestowed upon his competitor : a local inquisition : an uncertain and unequal measure of justice : fraud and favouritism daily and openly practised to his prejudice.

Ante, ch. 3.
sect. 2 and 3.

Instance,

Corporation of
Dublin—in-
jurious to fair
Trade.

In the city of Dublin, for instance, the number of corporate offices, from which the Catholics are *by direct law* excluded, has been shewn to amount to about 250—besides an equal number of dependant offices. These 500 merchants, tradesmen, and their dependants, borrow a character of superior credit, honour, and power—from this exclusion of their Catholic competitors. Nor is this artificial rank unsubstantial. The *name* of civic honours lends credit and recommendation to the trader—and procures lucrative support. If he vote prudently in the common council, or guild—he is, perhaps, rewarded by some beneficial contract for goods—or by an order from a public Board—which bestows affluence upon him for life. Thus a Protestant baker, cutler, sadler, gunsmith, tinman, brewer, builder, printer or stationer, chandler, &c.—may find a by-path to riches—wholly inaccessible to a Catholic.

Lucrative con-
tracts.

Such is the profuse distribution of public money in Ireland, that lucrative orders and contracts may readily be carved out for each privileged Corporator—whilst the less

favoured Catholic tradesman is compelled to remain a tame, and silent, spectator of this monopolizing system. CHAP. X.

3. The intolerance of these Penal Laws furnishes improper facilities for discrediting and oppressing Catholic merchants and tradesmen—and thus exposes them to continual hazards. In seasons of public commotion, this mischief operates severely and extensively. The Catholic, by reason of his religion, is marked as an object of suspicion (real or feigned): his loyalty and good conduct are maligned, and his credit whispered away. It is notorious that, in the years 1797, 1798, and 1799, very many Catholic traders and shopkeepers were wrongfully arrested, imprisoned, and persecuted with every severity—which they might have avoided, had they been Protestants. In consequence, their credit declined, their affairs fell into confusion, and at length they found themselves cruelly hurled from affluence to beggary. The persecutors of these innocent and deserving men found refuge in Acts of indemnity—which confounded all distinctions between right and wrong, guilt and innocence—and left the ruined Catholic and his family without redress or remuneration.

Catholic Merchants, Traders, &c.—peculiarly exposed to oppression and persecution.

Instances in 1797—9.

Acts of Indemnity.

CHAP. X.

Dangers to Ca-
tholic Mer-
chants, Traders,
&c.

What has thus occurred, may possibly occur again—a consideration, ever present to the minds of Creditors. Those especially, who reside in England, may be easily induced to believe that every Catholic in Ireland, without distinction of property or character, must be a rebel—and may probably become a prisoner, and an insolvent.

Bank Directors.

“ Catholics are, also, excluded
“ from the offices of Governors and Directors
“ of the Bank of Ireland.”

Bank of Ireland,
established—
1782.

21 and 22
Geo. 3. c. 16.

In 1782, this Bank was established by virtue of a royal charter, incorporating its proprietors, and confirmed by Act of Parliament. The Charter (which in this respect corresponds with that of the Bank of England) directs, “ that
“ no person shall act as a Governor, Deputy
“ Governor, or Director of this Corporation,
“ unless he shall have previously taken and
“ subscribed the Oaths of allegiance, supremacy,
“ and abjuration, and the Declaration against
“ transubstantiation, the mass, invocation of
“ saints, &c.”

Charter, ex-
cluding
Catholics.

[This declaration, and the oath of supremacy are, it is well known, incompatible with the religious tenets of Catholics.]

33 Geo. 3. c. 21.
Sect. 1.

In 1793, it was avowedly intended to render Catholics eligible, by Law, to these situations:

but, through the omission (whether inadvertent or intentional) of a single word, "Charter," in the Statute then passed, this intention has been frustrated—and the Catholics have, to this day, remained excluded.

CHAP. X.

Error in Statute of 1793—respecting the office of Bank Director.

The preamble of this Act, indeed, appears sufficiently declaratory of a liberal intention, viz.

"Whereas various Acts of Parliament have been passed, imposing on his Majesty's subjects, professing the Catholic religion, many restraints and disabilities, to which other subjects of this realm are not liable—and, from the peaceable and loyal demeanor of his Majesty's Catholic subjects, it is fit that such restraints and disabilities shall be discontinued."

Statute of 1793.

33 Geo. 3.
Sect. 1.

It then enacts, "That his Majesty's Catholic subjects shall not be liable or subject to any penalties, forfeitures, disabilities, or incapacities, &c, save such as his Majesty's Protestant subjects are liable and subject to."

Enabling
clauses.

It further enacts, "That it shall and may be lawful for Catholics to hold any office or place in, and to be a member of, any lay body corporate [except Dublin college] without taking or subscribing the oaths and

Sect. 7.

CHAP. X. “ declaration, &c. &c., and without receiving
 Bank Directors. “ the sacrament, &c.—*any law, statute, or*
 “ *by-law of any corporation to the contrary*
 “ *notwithstanding.*”

Such are the passages which affect this subject. The Statute contains several exceptions from the general remedial words, and prescribes certain conditions—but no other phrase appears in it, relating to the Bank of Ireland.

1795.
 Opinions of
 Messr. Burston,
 Wolfe and Pon-
 sonby—upon
 the construction
 of this Act.

During the short, but highly popular, administration of Earl Fitzwilliam in 1795, the Directors of this bank expressed a willingness to receive into the direction a few Catholic Merchants—but, some doubts having arisen upon the construction of this statute of 1793, they resorted to the opinions of eminent lawyers for their guidance. Messrs. Burston, Wolfe (then Attorney General), and George Ponsonby (since Chancellor), were therefore consulted; and it appearing, that Mr. Burston construed the statute of 1793 liberally, whilst Messrs. Wolfe and Ponsonby construed it strictly, and unfavourably towards the Catholics—the Directors finally determined to abide by the opinion of the majority—and have since accordingly acted under the impression, that the Catholics are legally ineligible.

The opinions of Messrs. Ponsonby, Wolfe, and Burston, were as follows, viz.

CHAP. X.

Bank Directors.

MR. PONSONBY.

“ I am of opinion, that Roman Catholics are
 “ not incapable of being Directors of the Bank
 “ of Ireland—but they cannot *act* as such,
 “ until they shall have made and subscribed
 “ the Declaration required by the Act of Anne,
 “ entitled, ‘ An Act to prevent the further
 “ growth of Popery;’ and shall have also
 “ taken the oaths of allegiance, supremacy, and
 “ abjuration.”

Opinion of Mr.
Ponsonby.

GEO. PONSONBY.

27th Jan. 1795.

MR. WOLFE. (ATTORNEY GENERAL.)

“ I am of opinion, that Roman Catholics
 “ are not ineligible to the offices of Directors of
 “ the Bank of Ireland. But previous to their
 “ *acting* in such office, they must take the
 “ oaths and subscribe the declaration prescribed
 “ by the charter. The act of the 33d of the

Mr. Wolfe.

CHAP. X. *“ King, in my apprehension, does not extend to*
 Bank Directors. *“ the case. That act enables Roman Catholics*
“ to become members of and to hold offices in
“ lay corporations—without taking the oaths,
“ or subscribing the declaration, notwithstanding
 Opinion of *“ ing any law or statute, or any by-law to the*
 Mr. Wolfe. *“ contrary :—but the act makes no provision for*
 1795. *“ a case, where the Charter of a corporation*
“ directs, that such oaths shall be taken, and
“ declaration signed, previous to its members
“ acting in an office of such corporation.”

A. WOLFE.

3d Feb. 1795.

 MR. BURSTON.

Mr. Burston, *“ A Roman Catholic might, under the*
“ Charter and Act of Parliament incorporating
“ the Bank, have exercised the office of Director,
“ if he had submitted to make the declaration
 favourable to *“ pursuant to the Act against the further*
 the admission of *“ growth of Popery, and to take the oaths of*
 Catholics. *“ allegiance, supremacy and abjuration. The*
“ Act of the 33d of George 3. cap. 21. sect. 7.
“ expressly enables a Roman Catholic to hold
“ any office or place of trust in, and to be a

“ member of, any lay body corporate (the **CHAP. X.**
 “ College excepted) without taking the oaths ^{Bank Directors.}
 “ of allegiance, supremacy, or abjuration, or —————
 “ making or subscribing the declaration re-
 “ quired to be taken, made and subscribed, to ^{Opinion of Mr.}
 “ enable any person to hold and enjoy any of ^{Burston,}
 “ such places—and without receiving the sacra-
 “ ment of the Lord’s Supper, according to the
 “ rites of the Church of Ireland, any law,
 “ statute, or by-law of any corporation to
 “ the contrary notwithstanding—provided such
 “ person shall take and subscribe the oath set
 “ forth in that section. The company of the
 “ Bank of Ireland is a lay corporation: and I
 “ am of opinion, that this Act of 33 Geo. 3.
 “ extends to it; and that, therefore, a Roman ^{favourable to}
 “ Catholic is eligible to the office of Director ^{the admission of}
 “ of the Bank of Ireland—provided he takes ^{Catholics.}
 “ and subscribes the oath appointed by the 33
 “ of Geo. 3.—and also the oaths of qualification
 “ as to property, and that to the Company,
 “ directed by the Charter.”

BERESFORD BURSTON.

29th Jan. 1795.

In 1808, whilst a Bill was pending in ^{Petition of}
 the Imperial Parliament for a renewal of the ^{Catholic Mera-}
^{chants, &c.}
 1808.

M m

CHAP. X.

Bank Directors.

Petition of Catholic Merchants, &c.—1808.

Bank charter for a further term of 21 years, Lord Grenville presented to the House of Lords a Petition of several Catholic merchants of Dublin, praying, “That they may not be excluded from acting, if elected, as Governors or Directors of the Bank of Ireland.”—His Lordship powerfully urged the matter of this Petition.

Cobbet's Parl. Deb. 22 June, 1808.—Vol. 2.

“You are now,” said he, “about to renew this Charter for a term exceeding 20 years. By allowing the Catholics to act as Directors of the Bank of Ireland, you will confer upon them no political power—for it is not in the Bank of Ireland as in that of England.—The former has not, like the latter, any connection with the government. The argument of political power, therefore, cannot apply to these situations.

Lord Grenville's argument.

“Besides, men of different religions are admitted as Directors of the Bank of England.

Absurdity of this exclusion.

“In Ireland, however, you would exclude from that situation those, who form the larger portion of the monied interest of the country—and who possess the greater share of the commercial capital. You thus deprive them of the means of managing their own property, than which nothing can be more

“ unreasonable. You so far discourage them CHAP. X.
 “ from entrusting their property to the Irish Bank Directors.
 “ funds, than which nothing can be more un-
 “ wise or impolitic. There is no point of view,
 “ under which it is possible to consider such an
 “ exclusion, in which it must not appear, to
 “ every unprejudiced mind, to be unjust,
 “ illiberal, ungrateful, and impolitic.”—He
 concluded by moving,

“ That it be an instruction to the Com- Motion, by
 “ mittee upon this Bill, that they do make Lord Grenville
 “ distinct provision for admitting the Catho-
 “ lics to hold and exercise the offices of
 “ Governor and Directors of the Bank of
 “ Ireland.” —1808.

This proposition was supported by the truly
 learned and eloquent Lord Erskine, who dwelt Lord Erskine—
 upon the Statute of 1793—and demonstrated,
 that the spirit of that Statute (as evinced by its ante, p. 319.
 preamble) must be violated by a refusal of this
 proposition.

Lord Hawkesbury (now Earl of Liverpool) Lord Liver-
 on the part of the British government, opposed pool—
 the Petition—and declared, that he would
 take his stand upon the law, *as it stood at the*
time of the Union, without admitting any vari-
 ation—and, accordingly, the motion was rejected, Motion ne-
 upon a division—101 against 64. gated.

CHAP. X.

Cobbet's Parl.
Dec. vol. 2.
June 2, 1803.

In the House of Commons, a similar proposition of Lord Henry Petty, supported by Mr. Grattan, and resisted by Messrs. John Foster and Percival, was also rejected—96 to 83.

Thus are the situations of Governor and
Bank Directors. Directors of the Bank of Ireland rigidly closed
against Catholics.

The injury, which Catholic merchants and traders sustain from this exclusion, may be estimated from a view of the solid advantages and powers annexed to these situations.—Bank Directors preside over the circulating currency of Ireland, and command the springs of private credit. They can favour one class of traders, and heavily press upon another:—they can, in many instances, postpone and prevent, or accelerate, the distress and insolvency of extensive merchants. They possess the best opportunities of ascertaining the extent of individual property and credit—of discriminating between real and fictitious capital—of anticipating bankruptcies, and guarding against consequent losses. From these opportunities they derive valuable knowledge—which they may use elsewhere, with certain and immense advantage to themselves and their friends.

This Exclusion
injurious to
Catholic Mer-
chants and
Traders.

Advantages,
possessed by
Bank Directors.

This superior intelligence, acquired by Bank Directors, and participated in by their immediate

connections, is manifestly of the highest value to CHAP. X,
 every merchant and trader. It may, frequently, Bank Directors.
 prove a shield against heavy losses—as the want
 of it may lead to utter ruin.

The late Mr. Edward Byrne, the first mer- Observation of
 chant in Ireland, when questioned respecting the Mr. E. Byrne.
 advantages incident to a Directorship, gave this
 conclusive and pointed answer :

“ I have bad debts in my books,” said he, Advantages of
 “ to the amount of £70,000.—Had I been a these situations.
 “ Bank Director, or had I an active friend in
 “ the Direction, these bad debts would probably
 “ not have exceeded £20,000.—Thus I lose
 “ £50,000. by this exclusion.”

 These are amongst the evils, which General mis-
 this intolerant Code of laws inflicts upon Ca- chiefs to the
 tholics, exercising commerce or trade in Ireland. Trade of
 They are in rapid progression, and must neces- Ireland.
 sarily impair the trade and lower the credit of
 traders of all classes, in the estimation of other Public discredit,
 countries. The sentiments of the English upon
 the general insecurity of property in Ireland are
 well ascertained. No English capitalist (of English Capi-
 any note) has settled in Ireland since the talists refuse to
 Union, a period of 12 years. Neither their settle in Ireland.
 large surplus of capital, nor the want of em-
 ployment at home, nor the cheapness of labour

CHAP. X.

English Capitalists refuse to settle in Ireland.

in Ireland, nor any of the natural advantages of this country—has tempted English merchants or manufacturers (however enterprising and greedy of gain) to entrust, to the protection of Irish Laws and people, their properties, machinery and families. They reason well—Their caution has abundantly justified the inimitable irony with which Mr. Grattan ridiculed the delusive predictions, (circulated at the time of the Union)—that these sober and rational calculators would deem Ireland a safe country, under an intolerant system of laws.

False predictions to the contrary.

Irish Parl. Deb.
15 Jan. 1800.

“ Mr. Pitt tells you,” said he, “ that the English capitalist will settle his family in the midst of those Irish Catholics, whom he does not think it safe to admit into parliament. As subjects he thinks them dangerous: as a neighbouring multitude, safe. The English manufacturer, forsooth, will make this notable distinction—he will dread them as individuals—and confide in them as a body, and settle his family and property in the midst of them. He will, therefore, leave his mines, his machinery, his comforts and his habits—conquer his prejudices—and come over to Ireland—to meet his Taxes, and miss his constitution.”

Mr. Grattan's opinions—fully justified by events.

SECTIONS XI—AND XII.

Humiliation of the Catholics—Hostility against them—sanctioned and encouraged, throughout every department.

To goad and exasperate a large and valuable class of citizens is a Policy, always Penal Code, goading and exasperating. ungenerous, generally unjust, frequently unsafe. Yet such is the policy of this Penal Code. No reader can fail to discern it in the pointed scorn and acrimonious operation of the numerous laws, referred to in the preceding sections of this "Statement." We shall now present some further illustrations of this hostile and contemptuous policy—from which it will appear, that the Laws treat the Catholics as a people, at once despicable and hateful.

1. It is a principle of law, that the Imputations of Superstition and Idolatry. Catholics are a *superstitious and idolatrous* race. For, the Declaration against the Catholic Religion, required from all members of Parliament, public officers, &c.—expressly stigmatizes the Catholic Mass, and other rites and Ante, p. 64--68, &c.

CHAP. X.

Imputations of
Superstition and
Idolatry.

Ante, p. 43—
48.

tenets—(long revered by all Catholics) as *superstitious and idolatrous*. Moreover, any provision for maintaining a Catholic Clergyman, Chapel, or Charity, is held, in law, to be a *superstitious* use.

These imputations, coarse and virulent as they are, necessarily subject the Catholics to ignominy and opprobrium—as a stupid and senseless people—immersed in superstition and idolatry—fit objects of scorn and abhorrence.

Imputations of
falsehood, dis-
loyalty, perjury,
&c.

2. The Law presumes every Catholic to be *faithless, disloyal, unprincipled, and disposed to equivocate upon his oath*—until he shall have repelled this presumption by his sworn exculpation—in public court.

Oaths, pre-
scribed to the
Catholics—by
the Statutes of
1773 and 1793.

This appears from the Statutes, which impose upon every Catholic, as the “*sine qua non*” of his existence, the humiliating condition of repeating all these and other cruel and abominable imputations “*seriatim*” and circumstantially—in the presence of his fellow-countrymen—and abjuring them, upon Oath.

Appendix -
post - p. 367-

Illiberal re-
proaches

No species of reproach appears more illiberal than this incessant and iterated imputation of immoral principles, which have been solemnly disclaimed. No weapon of hostility is more unfair, more unworthy, or more unwarrantable.

Yet such has been the warfare, prosecuted for CHAP. X.
 upwards of two hundred years against this ca-
 lumniated people.

Imputations—
 of falsehood,
 disloyalty, per-
 jury, &c.

Since the year 1773 (when they were first
 required, by Law, to disavow those monstrous
 tenets) probably Two MILLIONS of Catholics
 in Great Britain and Ireland—the most intelligent
 members of the communion—the clergy, gentry,
 and proprietors—have publicly taken and sub-
 scribed the oaths and declarations, repelling those
 imputations. This testimony has been corrobo-
 rated by the most learned Catholic Divines, the
 most renowned universities in Europe. Surely,
 this immense body of evidence must shew, “ that
 “ in reality the Catholics do *not* hold the
 “ immoral opinions and principles, imputed to
 “ them”—and that the accusations against them,
 vague and conjectural as they have ever been,
 are at this day unjust and unfounded. In any
 ordinary investigation, before an impartial and
 rational tribunal, such evidence would be deemed
conclusive.

Repelled, by
 ample tes-
 timony.

If this be so, it seems to follow, that the
 Catholics are now compelled to submit to the
 humiliation of publicly and individually falsi-
 fying cruel slanders, which are not even credi-
 ble—of repelling obloquy, which cannot be
 countenanced, even by those who propound the

Hardship, upon
 Catholics.

CHAP. X.

Cruel imputations of falsehood, perjury, &c.

Vehicles of humiliation.

Nature and extent of this hardship.

irritating test—of disclaiming sentiments so depraved, that it must grievously wound the feelings of an honest man to be suspected of harbouring them for a single moment.

May it not be suspected, then, that these tests are preserved, rather as memorials of rancour and vehicles of humiliation, than as effective safeguards of the state?—and may not this suspicion be fortified, if the Catholics feel themselves still branded by the same distrust and repulsion as if they had not taken and subscribed these oaths and declarations—or as if, having done so, they were wholly unworthy of belief or regard?

Let us suppose, for example, a Protestant citizen, of pure fame and honourable feelings, required by his neighbour to subscribe a declaration, importing, that “*he is not a traitor, a murderer, perjured or perfidious;—and that he makes such declaration without any evasion, equivocation, or mental reservation, &c.*”—would he not justly consider such a demand as a gross affront? But, suppose him compelled by the voice of his fellow-citizens, and under heavy penalties, to repeat this declaration publicly, upon his oath, and in the face of his country:—What must be his humiliation! The very necessity for such a

declaration stigmatizes his good name, and loads it with heavy suspicion. But, what injustice and torture must be inflicted upon a good man, who, after having submitted to this vexatious ordeal, is nevertheless treated ever afterwards by society, as if his exculpation were false and delusive! Why, he must naturally be filled with high indignation—perhaps aggravated by the discovery, that the latent motive for so public an affront was, not so much to afford him a mode of exculpating himself, as indirectly to render him an object of ridicule and aversion—to irritate his feelings, and to dismiss him to obscurity, disparaged in reputation, and lacerated by chagrin.

CHAP. X.

Catholics de-
famed and
vilified.

3. Another source of uniform contempt towards the Catholics, and of egregious ignorance in their rulers, is to be found in the silly and affected notion (long a favourite Fiction of Irish Law) that “all the effective inhabitants of Ireland are to be presumed to be Protestants—and that, therefore, the Catholics, their clergy, worship, &c. are not to be supposed to exist—save for reprehension and penalty.”

Fiction of Law—that no Catholic is presumed to exist in Ireland.

Fictions in Law have been, sometimes, resorted to—for the indirect attainment of salutary

CHAP. X.

Ridiculous
Fiction—

adopted in
Ireland.

Chancellor
Bowes.

Temp. Geo. 2.

Chief Justice
Robinson.

Mischiefs of this
notion.

Early preju-
dices.

objects, and for the removal of obstacles to substantial justice. But this stupendous fiction tramples upon every sentiment of equity, utility and common sense. It is exposed to ridicule by the broad fact, “that four out of every five persons to be met with in the streets are avowed Catholics.” Yet, Lord Chancellor Bowes declared from the Bench, that “the Law does not suppose any such person to exist as an Irish Roman Catholic.” Chief Justice Robinson made a similar declaration.

This fiction is the groundwork of most public measures, affecting Ireland. All legislative arrangements respecting education, charities, finance, military affairs, local police, &c. are, with wilful absurdity, projected and persisted in, upon the preposterous assumption, “that no Catholics exist in Ireland.”

Hence, irrational schemes, inefficient Laws, a supercilious tone of power, arrogant edicts, an abuse of public resources, and a perversion of public justice, in affairs concerning the population of Ireland.

4. This Penal Code, too, must naturally predispose Protestants against all Catholics, even thro’ the channel of EDUCATION.

The Protestant is properly taught, in early CHAP. X.
 life, to love and admire the Laws and Constitu-
 tion of his country. The highest encomiums Education,
 upon them form an essential part of his instruc- hostile to
 tion. He sees his relatives and connections Catholics.
 possessing honours and emoluments—happy and
 powerful in the State.

When he comes to read the Laws against Early prejudices
 Catholics, detailed in the Statute Book—eulo- inculcated—
 gized by Blackstone, Burn, Bacon, and the
 compilers—when he sees Catholics designated as
 very dangerous members of society, disqualified
 from office, distrusted in every public transac-
 tion, false to the Protestants and their country,
 superstitious, idolatrous, intolerant and tyranni-
 cal—he naturally and reasonably imbibes corres- sanctioned and
 ponding sentiments of vehement dislike towards confirmed by this
 them. As he respects the Law, so is he bound Penal Code.
 to acquiesce in its reasonableness and wisdom.
 As he loves his King and Country, he abhors
 the perfidious and traitorous plotters against
 both. As he venerates the Christian religion, he
 must detest the superstitious and idolatrous per-
 secutors of true believers.

Thus he enters the world, impressed by the
 Laws, which he respects from principle and
 gratitude, with an abhorrence of his Catholic
 neighbours, his tenants and servants—and thus,

CHAP. X.

Early dislikes to Catholics—sanctioned and inculcated by this Penal Code.

his very virtues, his docility, his aptitude to acquire and retain knowledge, become instrumental to his prejudice—vitiating his native benevolence—possibly conducive to his misery, and that of his country.

Many, very many, ingenuous Protestants have candidly avowed and lamented the false impressions, which they had thus imbibed—and have attributed their estrangement from intolerance to the result of serious reflection, correct information, experience of actual life, and mature conviction of the absurdity and mischiefs of those Penal Laws.

But, how many thousands may not have been equally fortunate with a Charlemont, a Latouche, a Shaw, &c. &c. How many, less enlightened, still look only to what the Law declares and inculcates—implicitly adopting its hostile declarations as their rule of action—and yet would readily admit the Catholics to favour and respect, if the Law ceased to condemn and defame them.

Hostility of persons in power—Justices, &c.

5. This Hostility pervades the exercise of power, through all departments in Ireland. Hence, the authorities vested in Justices of the peace, by common or statute law, are, in several instances, only so many instruments of vexation and weapons of annoyance, against the poorer

Catholics. The extensive jurisdiction enjoyed by them, under the Irish insurrection Acts, the Arms Acts, Revenue, Sessions, Riots, Militia Ballot, Highways, Distresses, Timber Acts, &c. &c.—and under divers other statutes, professing *general purposes*—are really felt to be, in effect, augmentations of the powers of the Protestants over the Catholics, in Ireland. The same may be truly affirmed of the various powers vested in other public officers, clerks, deputies, registers, &c. &c.

CHAP. X.

Hostility of
Justices, &c.
against Catho-
lics.

6. Hostility against the Catholics appears, moreover, in those confederated societies, formed upon the principle of jealous exclusion. These societies are the natural offspring of this Penal Code—and have long existed, with more or less acrimony, under various disguises and appellations; as “Friendly Brothers,” “Honest Fellows,” “Local Hunts,” “Protestant Boys,” “Orange Lodges,” &c. &c.

Hostile Con-
federacies.

Friendly
brothers,
Orange Lodges,
&c.

Many of the lower Protestants, tradespeople and artisans (sanctioned by the Irish Administration) have formed confederacies hostile to their Catholic fellow-subjects. Their avowed object is the maintenance of the present enormous monopoly of power and profit—termed Protestant ascendancy—the real objects (of

1811.

Their nature,

CHAP. X. many at least) are private interest, personal
 Hostile and exclusive
 Confederacies. emolument, facility of peculation, public discord, &c. These people feel, however, that their sway is not secure or permanent: and their fears are constantly awake.

Seneca.

Qui Sceptra duro sævius imperio regit,
 Timet timentes. Metus in authorem redit.

Their nature
 and principles.

Their vigilance is redoubled, and their jealousy excited, as they become more acquainted with the real strength and situation of the Catholics, and with the relative state of Europe. Though tenacious of monopoly, they are not deaf to the suggestions of reason and justice. A man of this cast views, with displeasure, the increasing numbers of the Catholics, and their steadfast perseverance in soliciting their rights—but, yet, is not quite blind to the menacing power of the foreign enemy. His policy is, therefore, wavering; and his treatment of the Catholic capricious. He considers himself as placed in the situation of the boy, holding the angry wolf by the ears,

Ptolem. Laert.

—— Auribus Lupum tenet.

There is danger in holding him: equal danger in letting him loose.—Fear sometimes

strips, even a wise and good man, of his best faculties. So it is with these people. In a moment of panic, they adopt an universal and unqualified proscription of the entire Catholic body, without distinction of persons, wealth, talent, industry, or other merit—and thus disclose the truth, that monopoly, not the public welfare, is the object of their attachment.

CHAP. X.

Confederacies
hostile to Ca-
tholics.

It is, however, but just to state of the Protestants of Ireland at large, that an immense majority of them (especially of those distinguished by property, rank, education, and personal merit) are cordially disposed towards a liberal and constitutional treatment of their Catholic fellow-subjects—and that every opposite feeling would probably subside in a short time, if it were not sustained and inflamed by all the influence and industry of the Irish Administration.

Majority of
Protestants
liberal; and
cordially dis-
posed.

Irish Adminis-
tration inflames
prejudices.
1811.

7. This Hostility is sometimes so virulent, as to refuse employment to Catholic tradesmen, artisans, servants, &c.—merely on account of their religion.

Refusals to em-
ploy Catholic
Tradesmen,
Servants, &c.

Persons are to be found, even in the higher ranks of life, holding great offices or commands, deriving splendid incomes from the taxation of the Catholic people—who will not hire or

Instances.

CHAP. X.

Catholic
Tradesmen,
Servants, &c.
refused employ-
ment.

employ any Catholic. They import their stewards, agents, tenants, gardeners, household servants—from England, Scotland, Germany, Switzerland—rather than employ an Irish Catholic. They even pique themselves upon this unnatural fastidiousness. The Irish prints abound with advertisements, and offers of various situations—stipulating *for the Protestantism of the party as the chief recommendation.* If any Protestant, foreigner or other, is to be had—he is preferred to the native Catholic.

Indeed, it is not easy to procure Protestant servants in Ireland. Such is the copious distribution of lucrative patronage—civil, military, and ecclesiastical—that almost every adult male Protestant in Ireland (nay many minors and females) may be amply provided for—and placed above situations of a servile nature.

Mischiefs.

Thus the honest industry of Catholics is very generally damped and repressed, especially in the cities and towns. Those employments, indeed, which are beneath the sphere of Protestant ambition, such as day-labourers, &c. are still within the reach of Catholics—but no selection for beneficial occupation, no public reward or honour, cheers the Catholic artist or tradesman. His inducements to attain excellence are limited

and scanty: whilst those of his Protestant neighbour are various and irresistible.

CHAP. X.

General hostility, &c.

8. To enumerate the various instances in which the Laws inflict humiliation upon the Catholics, and sanction hostility against them, would be a task of infinite magnitude. Some idea of their oppressive effects may be gathered from an attentive consideration of the Penal Statutes and regulations, already stated.

An eloquent and patriotic writer has, however, delineated the condition of the Catholics in terms so just, and language so moving, that we shall not presume to dilate upon this subject in any other form. We allude to that masterpiece of reasoning and elegant language, the “*Historical Apology for the Irish Catholics, by William Parnell, Esq.*” [Dublin, 1807.] The splendid excellence of that admirable tract, and our anxiety to render every justice to this interesting subject, must plead our excuse for the following copious extract:

Described by William Parnell Esq.

Historical Apology, &c.

Its excellence

“ A still more vexatious train of injuries flows from the influence, which these Penal Statutes have in forming habits and opinions, inimical to the Catholics.”

Page 137 to 145.

CHAP X.

W. Parnell, Esq.

*Historical
Apology for the
Irish Catholics—
1807.*

Conduct of
Bank Directors.

Catholic ser-
vants rejected.

Armed yeoman-
ry Corps—re-
ject Catholics.

“ Government, in fact, is the great leader of
“ the *ton* ; and its caprices and absurdities are
“ adopted by the [Protestant] public, with
“ all the rage and servility of fashion.

“ The English government manifest, by their
“ tenaciousness of the Penal Laws, that they
“ mistrust and dislike the Catholics.

“ First come the Bank Directors of Ireland,
“ who, not having the good sense to feel,
“ that, as their profession is naturally sor-
“ did and selfish, it ought to be counteracted
“ by liberality of sentiment, pass a law that no
“ Catholic shall be employed in any office be-
“ longing to the Bank—the number of which
“ is very considerable.” [nearly 200.]

“ Protestant families will not, in general,
“ take Catholic servants. Every newspaper
“ contains advertisements for servants, signify-
“ ing, that they must not be Catholics.

“ In yeoman corps, [armed] with very few
“ exceptions, no Catholics are admitted.

“ Upon the last rebellion [1803] the princi-
“ pal Roman Catholics in Dublin were anxious
“ to enrol themselves in the yeoman corps—they
“ were black-beaned to a man, by the merchants’
“ corps—and in general by all others, and were
“ only admitted into the lawyers’ corps.

“ In the country corps, the bigotry of the
 “ captains generally excludes Catholics: and,
 “ even when the captains would wish, for the
 “ appearance of their corps, to mix a few stout
 “ comely Catholics in it, the bigotry of the
 “ privates interferes to prevent it—as, in most
 “ instances, they would resign, if such a mea-
 “ sure were persisted in.

CHAP. X.
 Historical
 Apology for the
 Irish Catholics—
 by William
 Parnell, Esq.

“ In many towns in Ireland, there are convi-
 “ vial societies, amongst whom it is a rule to
 “ exclude Catholics.

Convivial So-
 cieties: illiberal.

“ In many counties, Protestants will not visit
 “ a Catholic: and it is the fashion to speak of
 “ them in the most injurious and degrading
 “ terms.”

Hostility in
 society.

In another place, Mr. Parnell pathetically
 asks, on behalf of his injured Country,

“ Will the English cabinet never perceive the
 “ important circumstances, on which all political
 “ events are now turning?

“ Will they not open their eyes to that in-
 “ calculable increase of personal pride, which
 “ has taken place in the British Islands?

Impolicy of
 insult.

“ Can they not see, that every effort of modern
 “ habits is directed to the gratification of this
 “ feeling—and to secure, under some shape or
 “ other, the esteem and regard of society?

CHAP. X.

Historical
Apology for the
Irish Catholics,
by W. Parnell,
Esq.

“ Will they never abandon those [narrow]
“ principles of policy, which only regard the
“ vulgar interests of men, and neglect the
“ feelings of the human mind—to which the
“ strongest interest is, after all, entirely sub-
“ servient ?

“ Of what value is wealth, and all the prin-
“ ciples of economy on which it is supported,
“ but as it assists the gratification of personal
“ pride ?

Impolicy of
wounding per-
sonal feelings.

“ What kind of policy then is it, which would
“ scruple to plunder the Catholics of their
“ wealth, which is of no value, but as a means
“ to gratify their personal pride—and yet will
“ not hesitate to make a direct attack on that
“ personal pride in its most delicate and most
“ irritable organ ?

“ If there is a political maxim established by
“ experience, it is, that it is safer to injure
“ men in their interests, than to wound their
“ pride.

Contemptuous
treatment of the
Catholics—
attributed to the
Government.

“ The most disagreeable circumstances, which
“ the Catholics are exposed to, are these testimo-
“ nies of contempt inflicted on them by their
“ fellow-countrymen—which would not take
“ place, did not the Government of the country
“ declare the Catholics to have forfeited its
“ sympathy, and to be unworthy of its confidence.

“ You may say, that this want of confidence
 “ is merely nominal—that Government, in fact,
 “ places as much confidence in Catholic soldiers
 “ and sailors, as in Protestants.

CHAP. X.
 Historical
 Apology for the
 Irish Catholics,
 by W. Parnell,
 Esq.

“ Allow (which is not the case) that this want
 “ of confidence *is* merely nominal—still, when
 “ a Government calls names, whether good or
 “ bad, they become in fact very grave realities.

“ Government calls a man a lord. This is
 “ only a name; but do not the most substantial
 “ effects of consequence and superiority flow
 “ from it?

“ But the reverse of any proposition that is
 “ true, is true also in the reverse; and if go-
 “ vernment, by attaching nominal honours to
 “ men, really invests them with superiority and
 “ grandeur—so, by attaching nominal disho-
 “ nours to men, it stamps upon them inferiority
 “ and disgrace.

Arguments
 against insulting
 a people.

“ It is not therefore, for the sake of political
 “ emoluments alone, (though these are fair
 “ objects of honourable ambition) it is not
 “ merely to represent the insignificance of their
 “ country in Parliament, that the Catholics look
 “ for an equality with the Protestants: this is
 “ not the emancipation which informs them with
 “ one soul, one interest, one purpose. What
 “ they may not, what they will not, resign, is an

CHAP. X. " emancipation from national contempt, from

Historical
Apology for the
Irish Catholics,
by W. Parnell,
Esq.

" public ignorance, from domestic depreda-
tion.

" A Catholic suffers the three most poignant
feelings, that can touch the human heart.

" The government of his country passes a
vote of censure on him.

" His fellow-citizen expresses his contempt
for him, and expresses it with impunity.

Public censure—
private scorn—
personal hu-
miliation—in-
flicted upon the
Catholics.

" The child of his affection blushes for him,
and mourns for himself, when he learns that
he necessarily inherits from his father a blot
and a reproach, which no private virtues,
or mental endowments, can obliterate or
conceal.

" How can we torture with this refined bar-
barity?

" Do not we shrink back at the sight of a
limb being cut off, and feel it in our own
marrow? Can we not feel, because the suf-
ferer is a Catholic?

Barbarity of this
treatment.

" O hearts of barbarians, of zealots, of
Protestants! the flames which made the name
of Bonner accursed, the hideous night of
St Bartholomew, are not so great a disgrace
to the character of man, as your cold con-
triving bigotry.

“ They at least had the excuse, the varnish, CHAP. X.
 “ of religious feeling; they sprung not from
 “ selfishness, but from a visitation of fanaticism, Historical
 Apology for the
 Irish Catholics,
 by W. Parnell,
 Esq.
 “ as inscrutable as physical insanity. These
 “ merely made a mistake; they worshipped a
 “ demon—and thought him a God.

“ But you, with perfect possession of your
 “ faculties, with a calm pulse, and minds un-
 “ affected by the slightest emotion, perpetuate
 “ statutes, to gall the best and most honourable
 “ feelings of many millions of men—whose
 “ sensations of pleasure and pain are exactly
 “ of the same nature with those, from which
 “ your own happiness or misery is derived.

“ The Catholics can feel; and do suffer.

“ The very peasantry acutely feel the stigma Peasantry and
 poor of Ireland
 —stigmatized,
 and scorned.
 “ cast by government upon their sect and their
 “ religion. The lowest order even suffer most.

“ The wealthy Catholics acquire a degree of
 “ consideration and legal security from their
 “ property—but the peasantry are left naked to
 “ the pelting of the storm, to all the jibes and
 “ jobs of Protestant ascendancy.

“ Not only a Protestant lord looks down
 “ upon a Catholic lord, and a Protestant gen-
 “ tleman on a Catholic gentleman, but a Pro-
 “ testant peasant on a Catholic peasant; and, in
 “ proportion as the degrading scale descends,

CHAP. X.

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Apology for the
Irish Catholics,
by W. Parnell,
Esq.

“ the expression of contempt becomes more
“ marked and gross.

“ Now, let any man say—can such disqua-
“ lifications be perpetuated with justice or
“ humanity: or can they be borne with pa-
“ tience?

“ Can we then find too strong terms to ex-
“ pose to Europe, every where else enlightened
“ and liberal, the dull and malignant conduct
“ of the Irish and English Protestants?

Illiberality of
power.

“ Can we find words to express our astonish-
“ ment, that the English cabinet should become
“ an echo, not to ravings of Bedlam, but to a
“ cento of every thing that is gross, vulgar,
“ and perverse; Dublin Guilds, Common
“ Council-men, Aldermen, Corporations;—
“ hitherto non-descripts in the classes of science,
“ literature and good sense?

“ Can we too warmly deprecate the disin-
“ genuousness, with which every variety of
“ rebellion in Ireland is attributed to the
“ Catholic religion, with out ever taking into
“ consideration the injustice with which
“ the professors of that religion have been
“ treated?

“ The Protestants, in their terror of perse-
“ cution, have become persecutors; their alarm
“ at Catholic atrocities has made them atro-

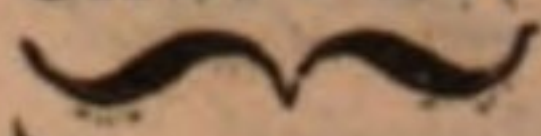
“ cious—to hear them speak, one would
 “ imagine that *they* had been the patient and
 “ uncomplaining sufferers, from the reign of
 “ William till George the Third ; that *they*
 “ had borne this long and cruel test of loyal
 “ resignation : that *they* had been deprived of
 “ property, of arms, of every legal and honour-
 “ able right.

“ No, it is not suffering ; but it is power—it
 “ is the pride of artificial ascendancy, it is
 “ the jealousy of exclusive privilege, that
 “ corrupts the understanding, and hardens the
 “ heart.”

CHAP. X.

Historical
 Apology for the
 Irish Catholics,
 by W. Parnell,
 Esq.

CHAP. XI.



CHAP. XI.

Retrospect.

*RETROSPECT of the Penal Laws—which
aggrieve the Catholics of Ireland.*

THE afflicting labour of wading thro' these ruinous and disgraceful Statutes now draws towards a close. We shall offer a summary view of their operation, taken from the foregoing "Statement."

Complete sub-
jugation of the
Catholics, in all
affairs.

1. The Catholics in Ireland are, by Law, completely subjected to the Protestants—and delivered over to their *exclusive* domination and disposal, in all affairs of property, liberty, and life.

Powers of mak-
ing Laws—
altering—
expounding—
executing—
all Laws.

2. In the Protestants, *solely and effectually*, are vested all powers of imposing taxes upon the Catholics, for public and general purposes, and indeed for every purpose—of enacting and altering Laws of every description, at their freewill and pleasure, for the regulation and controul of the Catholics in all particu-

lars—of expounding them—of executing them CHAP. X.
 with all the civil and military force of the land: Subjection of
 —of occupying all offices in the army and navy the Catholics.
 of the empire: that is to say, of exercising full
 command and authority over FIVE HUNDRED Army, Navy,
 THOUSAND ARMED MEN in the public pay—and Law offices, &c.
 finally, of compelling the Catholics to defray the
 far greater part of the enormous charges, sala-
 ries, and emoluments, attached to this immense
 multitude of lucrative situations.

3. The Laws even descend, from Corporate of-
 powers of a public and general nature, to the fices.
 local and minute powers residing in the govern-
 ment of each city and town—chase the Catholic In cities and
 from all participation in these powers, and clothe towns.
 each individual Protestant citizen with the
 same immediate authority over the Catholic Ante, ch. 3.
 citizen, that the Protestant community at large
 enjoy (through the Legislature, Army, Navy,
 judicial and executive Offices of the Law, and
 various other stations) over the Catholic
 community throughout these Realms.

4. The jealous and domineering spirit Parish rates,
 penetrates still farther, and with insatiable taxes, &c.
 avidity. *We trace it in the lesser subdivi-* Ante, chap. 7.
sion of society, into parishes; investing the p. 140, &c.

CHAP. XI.

The Catholics
aggrieved in the
Parishes—in
Land tax—
parish taxes and
income.

Ante, ch. 7,
p. 140, &c.

Protestants in each parish with a monopoly of power over the Catholics—rigidly excluding the latter (for instance) from Parish Vestries, and inflicting upon them a burdensome Land-tax, fluctuating at discretion—disqualifying them from checking or interfering in the expenditure of the parish estate or income, yet compelling them to supply its annual deficiencies—imposing upon them arduous Parochial offices, yet disabling them from voting at Parochial elections.

Right of bearing
arms circum-
scribed, and un-
equally enjoyed.

Ante, ch. 8.

Protestants
subject to no
restraint.

5. The Catholic is prohibited from exercising the valuable right of having or using arms, in the defence of his person, his family, dwelling or property, unless he possesses a certain property, and conforms to certain statutable regulations—whilst the Protestant, however deficient in property or character, is allowed to riot without restraint in the enjoyment of this great privilege—an inequality of rights, which frequently produces lamentable instances of aggression and outrage, especially in the Northern and Western districts of Ireland!

Judicial deci-
sions.

Ante, ch. 9.

6. A system of Judicial decision appears to exist, hostile to the Catholics—well understood and universally felt in Ireland, deeply

involving the purity of the administration of CHAP. XI.
 Justice. Penal clauses and partial regulations Courts of justice, how understood and felt in Ireland.
 are in force, whereby the Catholic is made
 practically to feel, that he cannot with implicit
 confidence appeal to Courts of Justice in any Ante, chap. 9.
 case, where the influence of the crown may be
 adversely exerted, or where religious prejudices
 may otherwise be called into action.

7. The laws cherish an ungenerous Opprobrious imputations continued: thro Test Oaths.
 spirit of insult, which exacts from all Catholics
 (through the medium of qualification tests)
 the humiliating duty of disclaiming and dis- Ante, ch. 10: p. 329, &c. and see Appendix.
 vowing, upon oath, ignominiously, in public
 courts, various disloyal, faithless, superstitious,
 and murderous principles—thus presupposing
 them to hold tenets, of which even the suspicion
 may attach infamy.

8. The Catholics are effectually ex- Exclusion— from offices in the Army and Navy—Legal and medical professions— Trade and commerce—property insecure— Clergy—Charities—Education—Poor, &c.—depressed.
 cluded from offices in the Army and Navy : from
 the honours of the legal and medical professions :
 from the ^{free} exercise of ~~the~~ Trade and Commerce.—
 Their property is unjustly burdened, and its
 enjoyment precarious and insecure.—Their clergy
 are depressed and insulted : their charities frus-
 trated : their education discouraged, and their
 poor consigned to neglect ! ! !

CHAP. XI.

Subordinate
clauses—vexa-
tious and irri-
tating.

Ante, ch. 10.

9. Various subordinate clauses of this Penal Code eternally tease and worry the Catholics of all ranks and classes, in a degree not to be described, and scarcely even to be imagined.

The Catholics—
branded with
scorn and op-
probrium.

Ante, ch. 10.
p. 332, &c.

10. Finally, these Penal Laws, by their very existence and necessary influence, stigmatize the Catholics as an inferior race, unfit for trust or power, marked for the scorn, derision, and opprobrium of mankind—and thus the helpless and unprotected condition of the Catholics hourly invites spurns and oppression.

He, who reflects that the weak are commonly the victims of the illiberal, may form some estimate of the miseries which the Catholics, thus prostrate, patiently endure in Ireland.

CHAP. XII.

General Observations upon this Penal Code.

*SECTION I.**Dissensions necessarily excited.*

UNDER this dreadful System, then, no Dissensions excited by this Penal Code. hope of quiet, or of concord, can remain for Ireland: no prospect of honourable security for the Throne or the Empire.

For, as this System grievously oppresses and irritates, the Catholics feel themselves bound, in prudence and in honour, to protest loudly and frequently against its existence—lest their silence might otherwise imply an acquiescence in its justice, or a submission to its spirit. The Catholics compelled to complain. These protests, thus provoked, are usually made through the medium of Petitions to the Legislature.—Every new petition excites a new opposition. A few agitators are employed to frame

CHAP. XII. a counter-petition—hence an annual contest.

Disensions excited by this Penal Code.

Consequent agitation.

Hardships imposed upon Catholic petitioners.

Unfair accusations.

1805.

1810—1811.

Contrivances, to prevent or frustrate Catholic petitions.

The entire force of the Irish Government is mustered against the Catholics. All, that depends upon official influence, comes forth in hostile array. The hired portion of the press, the expectants in church and state, the venal speculators—all are compactly embodied against religious liberty. If the petitioning Catholics hint at their great superiority of numbers, they are rebuked as guilty of falsehood: if they venture upon proof of the fact, they are accused of practising intimidation. If they feelingly dwell upon their grievances, they are roundly charged with wilful exaggeration: but, if they enter into minute and faithful details, they are loudly vilified as incendiaries, who proclaim mischievous truths for traitorous purposes. If they solicit a Parliamentary inquiry through respectful Petitions, they are encountered by confident assertions, that those petitions are in direct opposition to the wishes and good sense of the Catholics at large: but, when they naturally endeavour to obviate this objection, when they resort to peaceable and rational measures for collecting and conveying the real sentiments of the Catholic body, and select their nobility, gentry, men of talents, learning, virtue and property for that purpose—the Lord Lieutenant

of Ireland and his Secretary, and their agents, CHAP. XII. instantly excite an universal uproar, affect a serious alarm for the public tranquillity, and occupy themselves in circulating Proclamations, calculated to disunite the people, to alienate the Protestants, to hold forth the most spotless Catholics as instruments of sedition and treason, and as projecting a rival Legislation, in alleged violation of a dormant Statute.

Dissentions excited by this Penal Code.

Uproar raised against Catholic Meetings for the purpose.

A. D. 1811.

In this spirit they institute State Prosecutions, with unusual parade, and at heavy public expence, against various Catholic gentlemen—grounded upon a rigorous interpretation of an ill-penned Statute, menacing danger and penalty to Protestants as well as to Catholics: and, by such proceedings, it is attempted to drown the just complaints of the Catholics in national litigation and discord.

State prosecutions.

Ante, p. 261,

Attempts to drown all complaints.

Hence it necessarily follows, that, to the pernicious prejudices which these Penal Laws naturally cherish, are superadded the mischiefs created by the hostile Government; by its long chain of influence; its incessant activity; its organized exertions in reviving, inventing, and circulating every libel and slander, every pitiful jealousy every sordid suggestion, every sentiment of fierce defiance against the doctrines,

Its effect in promoting slanders &c.

CHAP. XII. opinions, characters, and persons of the Catholic
 ~~~~~  
 Petitioners.

Dissentions ex-  
 cited by this  
 Penal Code.

Its mischievous  
 course.

Such is the course of this malignant spirit :—  
 such it must continue, whilst these Laws en-  
 dure.

*It moves in a circle.* It compels Catholic  
 petitions—Petitions produce resistance—resist-  
 ance re-produces this evil spirit, and so the  
 mischief revolves.

~~~~~  
 SECTION II.

*Ignorance and Errors, prolonged by this
 Penal Code.*

This Penal Code
 renders reconci-
 liation annually
 more difficult.

THIS Anti-Catholic system produces
 further mischiefs. It renders the great work of
 redress (whenever the proper time shall arrive,
 and arrive it must) annually more difficult. It
 prolongs the mutual misunderstanding between
 Great Britain and Ireland, and the ignorance
 of each country respecting the actual state of
 the other. It retards their cordial union, and
 identification of interests. For, under this
 system, a Lord Lieutenant, Secretary, or other

public Officer, coming from England, enters CHAP. XII.
 upon his public duties, not merely uninformed,
 but unable to procure information. He is hood-
 winked upon his arrival, and consigned to a Misunderstand-
 ing & errors—
 prolonged by
 this Penal Code.
 certain class of persons, practised in systematic
 opposition to Catholic freedom. These men
 carefully beset him, and block up every avenue
 through which a Catholic might creep into
 esteem. They discredit every Catholic, by
 whispers and insinuations : maligning him indi-
 rectly, but incessantly : and acting upon an
 unqualified proscription of the entire Catholic
 Body, without distinction of persons, pro-
 perty, virtues, talents, or other merits. Thus
 they poison the ear of every visitor against
 the persons, principles, and practices of all
 Catholics ; and in this science they are eminently
 skilful. Instances of mis-
 representation--
 commonly prac-
 tised.

The unsuspecting stranger gradually assents
 to their maxims, leans towards their wishes, and
is pre-occupied by their narratives. He can-
 not presume, that persons, who possess the
 exterior of civilized society, and perhaps high
 station or rank, would descend to wilful false-
 hoods. He lends himself to their schemes, and
 acts upon their suggestions, until he finds it
 perhaps too late to retract. In time he probably

CHAP. XII.

See Lord Redesdale's Letters to Lord Fingall, in 1803. Duke of Richmond's proclamation, &c. &c. in 1811.

Lord Redesdale, Ld. Manners, D. of Richmond.

stumbles upon some awkward conflict with the Catholic Body, and commits himself by some public act of glaring indiscretion. Should he incur disgrace or ridicule, his advisers abandon him to his fate, or perhaps are foremost in whispering his censure with feigned regret and moderation. Thus the system of delusion and error is upheld : truth is intercepted : the Catholics remain utterly unknown to the government—and, finally, the English Statesman retires in chagrin, confusion, and disappointment :—deeply initiated, indeed, in the business of pomp, parade, jobs, festivities, and corporate addresses ; but absolutely unacquainted with the People of Ireland, their habits, feelings, or real interests.

Be his fate what it may, the Catholics still remain the principal sufferers, in every change and event, and through all their ranks and classes.

SECTION III.

General virulence of this Penal Code, against the Catholic Peasantry, Poor, &c. &c.

LET it not be pretended, then, that the grounds of Catholic Petitions are light or frivolous: that the Catholic *peasantry, artisans, and poor*, are too lowly for the frowns and pinching malignity of this Penal Code: that it curbs only the fancied ambition of wealthy and intelligent Catholics, but inflicts no injury upon the lower orders: that, in fine, their real causes of complaint are narrow or partial—not enforced by the wishes of the nation, or even by the sympathy of the Catholics at large.

Virulence of this Code—
against the Catholic peasantry
artisans and
poor.

Alas! the Penal Code against the Catholics of Ireland is far from being in a relaxed or languishing state. No clause is permitted to slumber: no merciful connivance is tolerated: even obsolete enactments are now forced into fresh vigour. The System works incessantly, to the prejudice of every Catholic: and, though sometimes unobservedly, yet eventually with sure and grievous efficacy. Even when it bears a mask—

A.D. 1811—12.

CHAP. XII. ed appearance, it is not less malignant, than
 when raging in the most furious aspect of per-
 secution.

Virulence of
 this penal Code
 —against the
 Catholics of *all*
ranks and classes.

No Catholic is so exalted by rank, fortune, or talent, or so depressed by poverty or ignorance, as to elude its baneful influence, to remain insensible of its contumelious and exasperating operation, or to suppress his murmurs against its long continuance.

Whichever way he turns, this monstrous System meets his eye, to dishearten and dismay him: to blast his best and fairest hopes for himself and his offspring. Whatever he utters or does, or meditates, whether in the intercourse of public life, or in the bosom of his family: whether he struggles for the general good or for his personal welfare: whether he seeks the comforts of harmless recreation, the rewards of active merit, or the advancement of his growing progeny—he still finds his paths continually obstructed by this Penal Code, its temper, its chain of influence, its partizans and its instruments. It frowns upon his approach, repels his touch, and frustrates his dearest and most rational wishes.

Thus, the Law, to others an object of attachment, gratitude and pride, is to the Catholic only a dark and gloomy barrier in life: exciting

new struggles, new defeats: producing heavy CHAP. XII.
injury, and loud complaints. The Law, in fine, bids him despond, and sink, hopeless of freedom, unrespected, in mute unavailing regret and chagrin.

Virulence of
this penal Code;
against the Ca-
tholics of all
ranks and classes

Hence his natural and incessant eagerness for relief. Hence the throbbing agitation in the bosom of every Catholic, and of every class, whenever a ray of hope gleams upon his benighted condition.

Eagerness of all
Catholics for
complete relief.

This hope, this eagerness of relief, paralyzes his industry, and consumes the best energies of his soul. It distracts his studies, and benumbs his love of country and of Laws. All his faculties are absorbed in the fond, but fruitless, contemplation of this sole and favourite object.

May we not venture to ask—Is not this alone an enormous grievance? Is it not grievous, that the portion of time, and the leisure for other occupations, which the enjoyment of perfect freedom affords to his fellow-citizens, must necessarily be consumed by the Catholic in perilous efforts for his own relief, and in the study of measures for facilitating this relief? And is not this a further and heavy TAX upon his time and his labour—or, in other words, upon his property?

Their time and
attention con-
sumed by this
pursuit.

R r

CHAP XII.

SECTION IV.

Appeal to Reason and Feeling—on behalf of the Irish Catholics.

The candid opponent invited to the test of

'imagining the case of the Catholic to be his own.'

IF there be any candid man, inclined to question this Statement as highly coloured, or to view this Anti-Catholic Code with indifference, we invite him to the unerring test of Reason and Feeling: and we intreat him for a moment *to imagine the case of the Catholic to be "his own."*—Let him suppose himself to be so branded and incapacitated, as is here shewn; to be set aside and stigmatized by the Constitution, as unworthy of filling any office of trust, honour, or emolument, in his native country: to be forced to distrust the protection of the Law, in affairs of property, liberty, and life: to be peremptorily denied that share of distributive justice, which apportions reward as well as punishment according to the deserts of each member of the community: to find closed against him every path, which his ambition, his courage, his genius, or his industry might prompt him to explore.—Let him imagine himself to be so taxed, so teased, so worried, and so contemned in his country, as to feel his situation more vile, in many respects, than that of the "outcast Jew."

Picture of Catholic suffering, and humiliation.

—Let him see himself shunned in private CHAP. XII.
 society as a degraded being—daily sinking Appeal to the
 in self-estimation, yet indignant at the scorn test of reason
 attached to his lot, and vainly looking around for and feeling.
 the succour and smiles of those Laws and that
 Constitution, which exalt his fellow citizens upon
 his mortification and misery. Then let him,
 indeed, consult those alluring and eloquent
 panegyrists of the British Constitution, the
 Montesquieus, the Blackstones and De Lolmes—
 who have pourtrayed its blessings in such fasci-
 nating colours; and let him ask them, whether
 he partakes of those inestimable blessings, or
 shares in that “**POLITICAL LIBERTY,**” which Political liberty.
 they have pronounced to be *the very end and*
purpose of that admired Constitution? Let him
 interrogate his own heart: does he enjoy **LIBER-** Liberty of
TY OF CONSCIENCE? Is he perfectly free to Conscience,
 follow its pure and harmless dictates? Is he, whether enjoy-
 or are his children, in a state of Servitude or of ed at present by
 Emancipation? The answers will readily be the Catholics.
 found. They are graven upon every true and
 honourable heart.

So much for the present condition of the Catholics of Ireland. From this condition they seek to be fully extricated: not through the wilderness of *gradual* Emancipation, but by the broad avenues of right and justice—and upon the great principle of **RELIGIOUS LIBERTY.**

CHAP. XII.

The real and
sole objects of
Catholic Peti-
tions.

Religious Li-
berty.

They build their hopes upon no jealous policy or narrow basis. Cheerfully would they concede the enjoyment of Civil and Religious Freedom to all mankind: *they ask no more for themselves.*—They do not seek the possession of offices, but merely *eligibility to office* in common with their fellow-citizens—not power or ascendancy over any class of people, but the bare permission to rise from their prostrate posture, and to stand erect in the Empire. To expunge from the Statute Book every line of angry feeling, every memorial of rancour, and every remnant of proscription—to efface every clause, provision, and phrase, that gives nerve to bigotry, sanction to intolerance, or preference (*in temporals*) to the professors of one Faith over those of any other, in any department of the state, or in any part of the empire—These noble objects comprize the entire policy of the Irish Catholics—engross their anxious thoughts—and constitute the scope and purpose of all their remonstrances and Petitions to every branch of the Legislature.

“Ea enim præsidia Libertatis petunt,”

“Non licentia ad oppugnandos alios.”

FINIS.

APPENDIX.

OATHS, &c.

Oaths, &c.—of 1773—and 1793.

WE subjoin the Declaration and Oaths, prescribed by Law to the Catholics of Ireland, and frequently referred to in the foregoing “Statement.” (a.) They contain minute recitals of the obnoxious, immoral, anti-social, and execrable tenets and principles, imputed to Catholics by their enemies—and an explicit, tho’ humiliating, disclaimer of them all.

(a.) See Ante,
p. 83. 307.
178. 330.
241-8. 353.
250.

I. Oath—prescribed to be taken and subscribed by Catholics—pursuant to the Statute of the 13 and 14 Geo. 3. ch. 35.—viz.

I (A. B.) do take Almighty God and his only Son Jesus Christ, my Redeemer, to witness—that I will be faithful and bear true allegiance to our most gracious Sovereign Lord King George the Third, and him will defend, to the utmost of my power, against all conspiracies and attempts whatever, that shall be made against his person, crown and dignity—and I will do my utmost to disclose and make known to his Majesty, and his heirs, all treasons and traitorous conspiracies which may be formed against him or them.—And I do faithfully promise to maintain, support and defend, to the utmost of my power, the succession of the crown in his Majesty’s family, against any person or persons whatsoever—hereby utterly renouncing and abjuring any obedience or allegiance unto the person taking upon

Allegiance to George 3.

To make known treasons, conspiracies, &c.

To defend the succession to the Throne—in the Hanoverian line.

The Pretender abjured.

OATH of 1773. himself the stile and title of Prince of Wales in the lifetime of his father, and who, since his death, is said to have assumed the stile and title of King of Great Britain and Ireland, by the name of Charles the Third—or to any other person claiming or pretending a right to the Crown of these Realms ;

Murderous and perfidious principles—disclaimed.

And I do swear—that I do reject and detest, as unchristian and impious to believe, that it is lawful to murder or destroy any person or persons whatsoever, for or under pretence of their being heretics.—And also that unchristian and impious principle, that no faith is to be kept with heretics.

Princes excommunicated—may not be deposed or murdered.

I further declare—that it is no Article of my faith, and that I do renounce, reject and abjure the opinion, that Princes excommunicated by the Pope and Council, or by any authority of the see of Rome, or by any authority whatsoever, may be deposed or murdered by their subjects, or by any person whatsoever :

Promise—not to hold contrary doctrines.

And I do promise—that I will not hold, maintain, or abet, any such opinion, or any other opinion contrary to what is expressed in this Declaration :

The Pope's temporal and civil jurisdiction disclaimed.

And I do declare—that I do not believe, that the Pope of Rome, or any other foreign prince, prelate, state, or potentate hath, or ought to have, any temporal or civil jurisdiction, power, superiority, or pre-eminence, directly or indirectly, within these realms.

No evasion, equivocation, or mental reservation, intended by this Oath.

And I do solemnly, in the presence of God and of his only Son Jesus Christ, my Redeemer, profess, testify, and declare—that I do make this Declaration, and every part thereof, in the plain and ordinary sense of the word, without any evasion, equivocation, or mental reservation whatever—and without any Dispensation already granted by the Pope, or any authority of the see of Rome, or any person whatever—and without thinking that I am or can be acquitted before God or man, or absolved of this Declaration, or of any part thereof, although the Pope, or any other person or persons, or authority whatsoever, shall dispense with or annul the same, or declare that it was null and void from the beginning.

SO HELP ME GOD.

II. *Declaration and Oath—prescribed to be* Oath, &c.—of
also taken and subscribed by Catholics— 1793.
pursuant to the Statute of 33 Geo. 3.
ch. 21.—viz,

I (A. B.) do hereby declare, that I do profess the *The Declara-*
 Roman Catholic Religion. *tion.*

I (A. B.) do swear, that I do abjure, condemn, and *The Oath.*
 detest, as unchristian and impious, the principle that it is
lawful to murder, destroy, or any ways injure any person *Murderous, im-*
 whatsoever, for or under the pretence of his being a heretic *moral, and wick-*
 —and I do solemnly declare before God, that I believe, *ed principles—*
 that no act in itself unjust, immoral, or wicked, can ever be *again disavowed*
justified or excused by or under pretence or colour, that it
was done either for the good of the Church, or in obedience
to any ecclesiastical power whatsoever.

I also declare, that it is *not* an article of the Catholic *Pope, not infal-*
 faith, neither am I thereby required to believe or profess, *libile, &c. &c.*
 that the Pope is infallible, or that I am *bonnd to obey any*
order in its own nature immoral, though the Pope or any
ecclesiastical power should issue or direct such order—but, on
the contrary I hold, that it would be sinful in me to pay
any respect or obedience thereto.

I further declare, that I do not believe that *any sin what-* *Sins and crimes—*
soever, committed by me, can be forgiven at the mere will of *not pardonable*
any Pope, or of any Priest, or of any person or persons *at the mere will*
whatsoever—but, that sincere sorrow for past sins, and a *of any priest,*
firm and sincere resolution to avoid future guilt, and to *&c.*
atone to God, are previous and indispensable requisites to
establish a well-founded expectation of forgiveness—and
that any person who receives absolution without these pre-
vious requisites, so far from obtaining thereby any remission *To defend the*
of his sins, incurs the additional guilt of violating a sacra- *present settle-*
ment—and I do swear that I will defend, to the utmost of *ment of proper-*
ty in Ireland.

Oath, &c.—of
1793.

my power, the settlement and arrangement of property in this country, as established by the laws now in being.

I do hereby disclaim, disavow, and solemnly abjure, any intention to subvert the present Church establishment, for the purpose of substituting a Catholic establishment in its stead.

Protestant reli-
gion, &c.—not
to be disturbed
and weakened.

And I do most solemnly swear, that I will not exercise any privilege to which I am, or may become, entitled, to disturb and weaken the Protestant Religion and Protestant Government in this kingdom.

So help me God.

Such are the Oaths and Declaration.—

The Statute of 1793 (33 Geo. 3. c. 21. s. 14.)

Ante -

p: 248 - 250 -

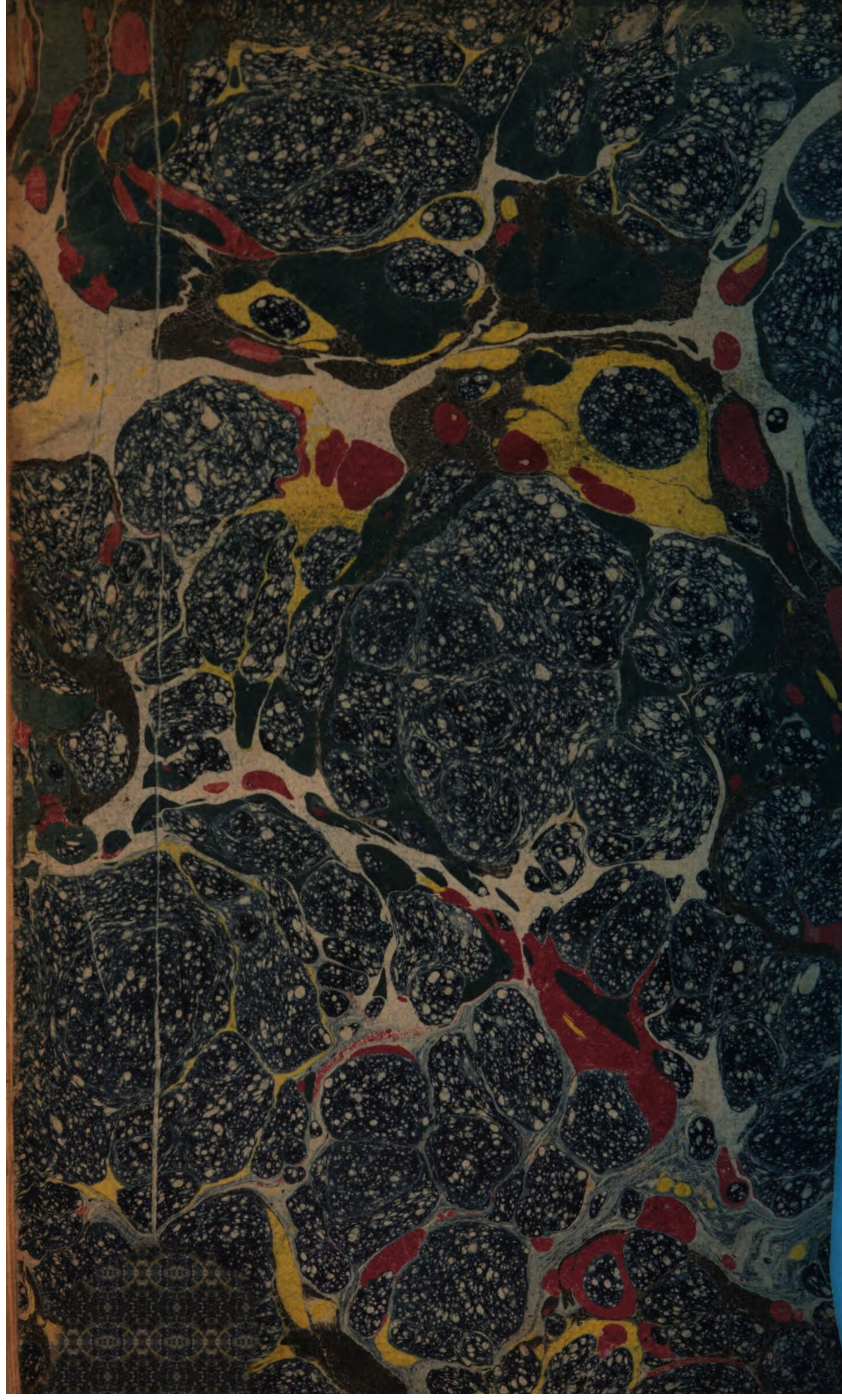
moreover, directs, “ That no Catholic shall
“ take *any* benefit thereby, unless he shall have
“ first taken and subscribed them all—in the
“ manner, and with the formalities, prescribed
“ by that Statute.”

And I, the undersigned, do hereby certify that the above is a true and correct copy of the original as the same appears in the records of the Court of the County of [] State of []

Witness my hand and seal of office at the City of [] this [] day of [] 19[]

Notary Public for the State of []

Such are the Oaths and Declaration
The Statute of 1792, c. 3, s. 21, is
hereby recited. That the Catholic shall
not be admitted to the office of Justice of the Peace
and shall not be appointed there to, nor be
qualified, until the Legislature, provided
by the Statute.



Scully, Denys

A statement of the penal laws, which aggrieve the Catholics of Ireland
with commentaries

Bd.: 2

Dublin (1812)

Crim. 241 k-1/2

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